

Selected California Accessibility Statutes

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A. ACCESS TO PUBLIC BUILDINGS BY PHYSICALLY HANDICAPPED PERSONS

Government Code

- §4450. Purpose of chapter; standards for access to buildings; regulations
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§4450. Purpose of chapter; standards for access to buildings; regulations

(a) It is the purpose of this chapter to ensure that all buildings, structures, sidewalks, curbs, and related facilities, constructed in this state by the use of state, county, or municipal funds, or the funds of any political subdivision of the state shall be accessible to and usable by persons with disabilities.

The State Architect shall develop and submit proposed building standards to the California Building Standards Commission for approval and adoption pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code and shall develop other regulations for making buildings, structures, sidewalks, curbs, and related facilities accessible to and usable by persons with disabilities. The regulations and building standards relating to access for persons with disabilities shall be consistent with the standards for buildings and structures which are contained in pertinent provisions of the latest edition of the Uniform Building Code, as adopted by the International Conference of Building Officials, and these regulations and building standards shall contain additional requirements relating to buildings, structures, sidewalks, curbs, and other related facilities as the State Architect determines are necessary to assure access and usability for persons with disabilities. In developing and revising these additional requirements, the State Architect shall consult with the Department of Rehabilitation, the League of California Cities, the County Supervisors Association of California, and at least one private organization representing and comprised of persons with disabilities.

(b) However, in no case shall the State Architect's regulations and building standards prescribe a lesser standard of accessibility or usability than provided by the Accessibility Guidelines prepared by the federal Access Board as adopted by the United States Department of Justice to implement the Americans with Disabilities Act of 1990 (Public Law 101-336).

(Added by Stats.1968, c. 261 §1. Amended by Stats.1971, c. 1301 §1; Stats.1974, c. 995 §1; Stats.1975, c. 1150 §1, effective September 29, 1975; Stats.1979, c. 1152 §10; Stats.1992, c. 913 (A.B. 1077) §16; Stats.1993, c. 1214 (A.B. 551) §4; Stats.1993, c. 1220 (A.B. 1138) §1.)

§4450.5. State architect's regulations, identification of parking spaces for handicapped

The State Architect's regulations adopted pursuant to Section 4450 shall require that all parking spaces reserved for the handicapped be identified as prescribed by Sections 22511.7 and 22511.8 of the Vehicle Code.

(Added by Stats.1984, c. 484 §1.)

§4451. Buildings and facilities to which chapter applicable; standards and specifications; exceptions

(a) Except as otherwise provided in this section, this chapter shall be limited in its application to all buildings and facilities stated in Section 4450 intended for use by the public, with any reasonable availability to, or usage by, persons with disabilities, including all facilities used for education and instruction, including the University of California, the California State University, and the various community college districts, that are constructed in whole or in part by the use of state, county, or municipal funds, or the funds of any political subdivision of the state.

(b) When required by federal or state law, buildings, structures, and facilities, or portions thereof, that are leased, rented, contracted, sublet, or hired by any municipal, county, or state division of government, or special district shall be made accessible to, and usable by, persons with disabilities.

(c) Except as otherwise provided by law, buildings, structures, sidewalks, curbs, and related facilities subject to the provisions of this chapter or Part 5.5 (commencing with Section 19955) of Division 13 of the Health and Safety Code shall conform to the building standards published in the California Building Standards Code relating to access for the persons with disabilities and the other regulations adopted pursuant to Section 4450 that are in effect on the date of an application for a building permit.

With respect to buildings, structures, sidewalks, curbs, and related facilities not requiring a building permit, building standards published in the California Building Standards Code relating to access for persons with disabilities and other regulations adopted pursuant to Section 4450, and in effect at the time construction is commenced shall be applicable.

(d) Until building standards are published in the California Building Standards Code and other regulations are developed by the State Architect and adopted by the California Building Standards Commission pursuant to Section 4450, buildings, structures, sidewalks, curbs, and related facilities subject to the provisions of this chapter or Part 5.5 (commencing with Section 19955) of Division 13 of the Health and Safety Code shall meet or exceed the requirements of Title III of Subpart D of the federal Americans with Disabilities Act of 1990.

(e) This chapter shall apply to temporary or emergency construction as well as permanent buildings.

(f) Administrative authorities, as designated under Section 4453, may grant exceptions from the literal requirements of the building standards published in the California Building Standards Code relating to access for persons with disabilities, or the other regulations adopted pursuant to this section, or permit the use of other methods or materials, but only when it is clearly evident that equivalent facilitation and protection that meets or exceeds the requirements under federal law are thereby secured.

(g) The Department of General Services shall develop, as appropriate, regulations to ensure that Braille, tactile, or visual signage for elevators, rooms, spaces, functions, and directional information is installed as required by Section 4450 and shall develop and implement an effective training program to ensure compliance with all disability access requirements.

(Added by Stats.1968, c. 261 §1. Amended by Stats.1971, c. 1301 §2; Stats.1974, c. 995 §2; Stats.1975, c. 1150 §2, effective September 29, 1975; Stats.1979, c. 1152 §11; Stats.1983, c. 143 §183; Stats.1993, c. 1220 §2. Amended by Stats.2000, c. 989 (S.B. 1242), §2.)

§4452. Minimum standards; deviations from specifications

It is the intent of the Legislature that the building standards published in the State Building Standards Code relating to access by the physically handicapped and the other regulations adopted by the State Architect pursuant to Section 4450 shall be used as minimum requirements to insure that buildings, structures and related facilities covered by this chapter are accessible to, and functional for, the physically handicapped to, through, and within their doors, without loss of function, space, or facility where the general public is concerned.

Any unauthorized deviation from such regulations or building standards shall be rectified by full compliance within 90 days after discovery of the deviation.

(Added by Stats.1968, c. 261 §1. Amended by Stats.1971, c. 1301 §3; Stats.1974, c. 995 §3; Stats.1979, c. 1152 §12.)

§4453. Responsibility for enforcement of chapter

The responsibility for enforcement of this chapter shall be as follows:

(a) By the Director of the Department of General Services where state funds are utilized for any project or where funds of counties, municipalities, or other political subdivisions are utilized for the construction of elementary, secondary, or community college projects.

(b) By the governing bodies thereof where funds of counties, municipalities, or other political subdivisions are utilized except as otherwise provided in (a) above.

(Added by Stats.1968, c. 261 §1. Amended by Stats.1978, c. 326 §1.)

§4453.5. Inspection of state and school district buildings by physically disabled volunteers; reports; correction plan; applicability of section

(a) In addition to any other inspection requirements pertaining to building standards of state and school district buildings used by the public, the construction of which are under the jurisdiction of the Office of the State Architect in the Department of General Services, accessibility to persons with handicaps may be inspected pursuant to subdivision (b) in state and school district buildings used by the public in order to determine if the building meets minimum state standards for accessibility to handicapped persons.

(b) Inspection and approval may be made on a voluntary basis by one or more persons who have physical disabilities or who represent the interests of physically disabled persons, who are familiar with the California access laws and standards, and who have been chosen by the Department of Rehabilitation. The Department of Rehabilitation may assign these volunteers to inspect those state and school district buildings used by the public specified in subdivision (a). If the volunteer inspector finds that a building does not meet minimum state standards for accessibility to handicapped persons, the volunteer shall report this information to the Department of Rehabilitation, which shall in turn report the information to the school district if a school building is involved, to the owning agencies if a state building is involved, and to the Office of the State Architect. When, after receipt of this information, the Office of the State Architect confirms that the building does not meet minimal state standards for accessibility to handicapped persons, the Office of the State Architect shall develop a plan to be filed with the jurisdiction owning the building that addresses the correction of the identified deficiencies.

(c) The provisions of this section shall only pertain to state and school district buildings used by the public for which building plans have been filed with the Office of the State Architect on or after January 1, 1985.

(Added by Stats.1983, c. 1246 §2.)

§4454. Approval of plans and specifications; filing fees; consultation

Where state funds are utilized for any building or facility subject to this chapter, or where funds of counties, municipalities, or other political subdivisions are utilized for the construction of elementary school, secondary school, or community college buildings and facilities subject to this chapter, no contract shall be awarded until the Department of General Services has issued written approval stating that the plans and specifications comply with the intent of this chapter.

In each case the application for approval shall be accompanied by the plans and full, complete, and accurate specifications, which shall comply in every respect with any and all requirements prescribed by the Department of General Services.

The application shall be accompanied by a filing fee in amounts as determined by the Department of General Services. All fees shall be deposited into the Access for Handicapped Account, which account is hereby renamed the Disability Access Account as of July 1, 2001, and established in the General Fund. Notwithstanding Section 13340, the account is continuously appropriated for expenditures for the use of the Department of General Services, in carrying out the department's responsibilities under this chapter. However, the expenditure of funds from the Disability Access Account for responsibilities prescribed in Section 4459 shall terminate on December 31, 2004.

The Department of General Services shall consult with the Department of Rehabilitation in identifying the requirements necessary to comply with this chapter.

The Department of General Services, Division of the State Architect, shall include the cost of carrying the responsibilities identified in this chapter as part of the plan review costs in determining fees.

(Added by Stats.1970, c. 701 §1. Amended by Stats.1978, c. 326 §2. Amended by Stats.2000, c. 989 (S.B. 1242), §3.)

§4455. Duties of Department of Rehabilitation

The Department of Rehabilitation shall be responsible for educating the public and working with officials of cities, counties, municipalities, and other political subdivisions, private architects, designers, planners, and other interested parties in order to encourage and help them make all buildings, facilities, and improved areas accessible to and usable by handicapped persons for purposes of rehabilitation, employment, business, recreation, and all other aspects of normal living.

(Added by Stats.1970, c. 701 §2.)

§4455.5. Elevators; Braille symbols

All new elevators in public buildings or facilities after the operative date of the act that amended this section during the first year of the 1979-80 Regular Session shall have Braille symbols and marked arabic numerals corresponding to the numerals on the elevator buttons embossed immediately to the left thereof.

All new door casings on all elevator floors after the operative date of this section shall have the number of the floor on which the casing is located embossed in Braille symbols and marked arabic numerals on both sides at a height of approximately 60 inches from the floor.

(Added by Stats.1971, c. 1368 §1. Amended by Stats.1979, c. 273 §1.)

§4456. Alteration of existing buildings or facilities

After the effective date of this section, any building or facility which would have been subject to this chapter but for the fact it was constructed prior to November 13, 1968, shall comply with the provisions of this chapter when alterations, structural repairs or additions are made to such building or facility. This requirement shall only apply to the area of specific alteration, structural repair or addition and shall not be construed to mean that the entire structure or facility is subject to this chapter.

(Added by Stats.1971, c. 1458 §1.)

§4457. Portable buildings of school district

On or after January 1, 1986, all portable buildings purchased, leased, or constructed by a school district shall meet the requirements of this chapter, except as provided in subdivision (f) of Section 4451.

(Added by Stats.1985, c. 550 §2.)

§4458. Violations; injunctions; district or city attorney, attorney general

The district attorney, the city attorney, or the Attorney General may bring an action to enjoin a violation of this chapter.

(Added by Stats.1976, c. 869 §2.)

§4459. Accessibility requirements; use of fees

- (a) The State Architect shall develop amendments for building regulations and submit them to the California Building Standards Commission for adoption to ensure that no accessibility requirements of the California Building Standards Code shall be enhanced or diminished except as necessary for (1) retaining existing state regulations that provide greater accessibility and

features, or (2) meeting federal minimum accessibility standards of the federal Americans with Disabilities Act of 1990 as adopted by the United States Department of Justice, the Uniform Federal Accessibility Standards, and the federal Architectural Barriers Act.

- (b) The Department of General Services shall use fees deposited in the Disability Access Account established in Section 4454 for the purposes identified in this chapter. The department shall include the cost of carrying out the responsibilities identified in this chapter as part of the plan review costs in determining fees.
- (c) Notwithstanding any other provision of law, the application and scope of accessibility regulations in the California Building Standards Code shall not be less than the application and scope of accessibility requirements of the federal Americans with Disabilities Act of 1990 as adopted by the United States Department of Justice, the Uniform Federal Accessibility Standards, and the federal Architectural Barriers Act.

(Added by Stats.2000, c.989 (S.B. 1242), §4.)

§4460. (a) Detectable warning products and directional surfaces; approval

The Legislature finds and declares that it is essential that detectable warning and directional surfaces comply with the California Building Standards Code in order to ensure that those products are adequate to meet the safety and accessibility needs of the blind and visually impaired.

(b) All detectable warning products and directional surfaces installed after January 1, 2001, shall be evaluated by an independent entity, selected by the Department of General Services, Division of the State Architect, in consultation with the Department of Housing and Community Development when the products and surfaces may be mandated for use in residential housing, that shall issue and register a two-year product approval, renewable upon reevaluation at two-year intervals thereafter. The approval shall include conformation with architectural standards published in the California Building Standards Code as well as durability criteria appropriate for the type of installation, established by the Department of General Services, Division of the State Architect, in consultation with the Department of Housing and Community Development when the products and surfaces may be mandated for use in residential housing.

The codes developed by the Department of General Services pursuant to this section shall ensure that shape, color fastness, confirmation, sound-on-cane acoustic quality, resilience, and attachment will not degrade significantly for at least five years.

The Department of General Services, Division of the State Architect, shall impose fees to recover administrative and code development costs, as necessary, to develop standards and administer the registration and approval program. The fees shall be paid by manufacturers of detectable warning products and directional surfaces. All fees shall be deposited in the Access for Handicap Account created pursuant to Section 4454 and may be expended for costs incurred by the Department of General Services, Division of the State Architect, in performance of the requirements of this section.

As used in this section, “significant degradation” means that the product maintains at least 90 percent of its approved design characteristics. The Department of General Services may provide exceptions to this section for justifiable cause pursuant to Section 4451.

(c) The independent entity selected by the Department of General Services, Division of the State Architect, shall be recognized as having appropriate expertise in determining whether products governed by this section comply with the California Building Standards Code.

(Added by Stats.1999, c.386 (A.B.685), §1.)

B. RAPID TRANSIT

Government Code

§4500. Contracts for rapid transit equipment or structures; ready access for individuals with disabilities

(a) Notwithstanding the provisions of any statute, rule, regulation, decision, or pronouncement to the contrary, other than subdivision (b), every state agency, board, and department, every local governmental subdivision, every district, every public and quasi-public corporation, every local public agency and public service corporation, and every city, county, city and county and municipal corporation, whether incorporated or not and whether chartered or not, in awarding contracts for operations, equipment, or structures shall be obligated to require that all fixed-route transit equipment and public transit structures shall be so built that individuals with disabilities shall have ready access to, from and in such equipment and structures.

(b) Notwithstanding any other provision of law, public transit facilities and operations, whether operated by or under contract with a public entity, shall meet the applicable standards of Title II and III of the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and the federal regulations adopted pursuant thereto, subject to the exceptions provided in that act. However, if the laws of this state in effect on December 31, 1992, prescribe higher standards than the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted pursuant thereto, then those public transit facilities and operations shall meet the higher standards.

(Added Stats.1971, c. 444 §1. Amended by Stats.1992, c. 913 (A.B.1077) §17.

C. FACILITIES FOR HANDICAPPED PERSONS

Government Code

§7250. Application

§7251. Toilet facilities; signs

§7252. Level or ramp entrances; signs

§7250. Application

The provisions of this chapter apply to all buildings or other facilities owned, leased, operated or managed by the state, county, city and county, district, or other political subdivision and which are usually or regularly open to the members of the public.

(Added by Stats.1968, c937, p. 1787, §1.)

§7251. Toilet facilities; signs

When a building contains special toilet facilities usable by a person in a wheelchair or otherwise handicapped, a sign indicating the location of such facilities shall be posted in the building directory, in the main lobby, or at any entrance specially used by handicapped persons.

(Added by Stats.1968, c. 937, p.1788, §1.)

§7252. Level or ramp entrance; signs

When a building contains an entrance other than the main entrance which is ramped or level for use by handicapped persons, a sign showing its location shall be posted at or near the main entrance which shall be visible from the adjacent public sidewalk or way.

(Added by Stats.1968, c. 937, p.1788, §1.)

Article 3 – Approvals

Education Code

- §17280. Supervision of design, construction and fire damage repair by Department of General Services.
- §17281 Short Title
- §17282. Damage caused by natural disasters; repairs, alterations, or reconstruction; expedited review and approval process; time limitations
- §17283 “School Building”
- §17284 Nonconforming school building; extension of use
- §17284.5 Non conforming existing private buildings; use as school buildings; extension of waivers.
- §17285 Leased nonconforming buildings
- §17286 “School building”; exemption for certain facilities
- §17287. “School building”; exclusion of buildings used for outdoor science, conservation, and forestry classes
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- §17294 “Construction or alteration”
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- §17299 Requirements of specifications, structural design computations and cost estimates with plans submitted for approval
- §17300 Filing fees for submission of plans for approval; rates; installments
- §17301 Public school planning, design, and construction review revolving fund; fees; audits

- §17302 Preparers of plans, specifications, and estimates; qualifications; observation of construction
- §17303 Plan review; complete application; methods to reduce time lapse; notice
- §17304 Printing of plans; approval letter
- §17305 Qualified plan review firms; contracts
- §17306 Review of application; referral of documents to review firm.
- §17307 Compliance with the provisions of this article and approval of the Department of General Services.
- §17308 Legislative findings, employee training; interpretational materials
- §17309 Reports required of architects, engineers, and inspectors; information required
- §17310 Rules and regulations; building standards
- §17311 Inspections by Department of General Services and appointed inspector
- §17312 Violations and false statements
- §17313 Structural inspection by Department of General Services upon special request; payment of expenses
- §17314 Approval of public school building for occupancy by Department of General Services deemed to meet local building requirements for use as a private school
- §17315 Certificate of compliance; verified reports
- §17316 Contract provision required making plans, specifications, and estimates, property of the school district
- §17317 Seismic safety inventory of public school buildings; report.
- §17318, 17319 Repealed

§17280. Supervision of design, construction and fire damage repair by Department of General Services

(a) The Department of General Services under the police power of the state shall supervise the design and construction of any school building or the reconstruction or alteration of or addition to any school building, if not exempted under Section 17295, to ensure that plans and specifications comply with the rules and regulations adopted pursuant to this article and building standards published in Title 24 of the California Code of Regulations, and to ensure that the work of construction has been performed in accordance with the approved plans and specifications, for the protection of life and property. Nothing in this section shall be construed to allow a school district to perform work with its own forces in excess of the limitations set forth in Sections 17595 and 17599. In calculating the cost of any project of reconstruction or alteration of, or addition to, any school building for the purpose of determining the applicability of the rules and regulations adopted pursuant to this article and building standards published in Title 24 of the California Code of Regulations, the Department of General Services shall not include, as an element of that cost, any expenses of air-conditioning equipment or insulation materials for that building, or of installing the equipment or materials.

(b) Whenever repairs due to fire damage, not including any damage caused by wind or earthquake, must be made to any school building previously approved by the Department of General Services, the approved plans and specifications used in the original work under then existing rules, regulations, and building standards may be used without modification, providing all other provisions of this article are carried out.

(c) Notwithstanding any other provision of law, no school district shall be authorized to construct or reconstruct any school building, regardless of the source of funding, unless and until the governing board of the district, by resolution, has indicated the agreement of the district that any school building construction or reconstruction that exceeds those construction costs and allowable area standards or any allowable building area computed for an attendance area pursuant to Section 17041 shall, in the event of the district's subsequent application for state funding for school facility construction, be deducted from the allowable building area for which the district would otherwise have been eligible, which restriction shall not be subject to waiver or exception as otherwise may be provided by law.

(d) If it is determined that, for any reason, a school district failed to comply with the requirement of this section, the district shall not be eligible for any additional building area pursuant to Section 17049 and may be denied any time priority established for the particular project pursuant to Section 17016.

(Added by Stats.1996, c.277(S.B.1562), § 3, operative Jan. 1, 1998. Amended by Stats.1997, c.390 (A.B.611), § 1, eff. Aug.27, 1997.)

§17281. Short Title

This article, together with Article 6 (commencing with Section 17365), and Article 7 (commencing with Section 81130) of Chapter 1 of Part 49, shall be known and may be cited as the "Field Act."

(Added by Stats.1996, c. 277 (S.B.1562), § 3, operative Jan. 1, 1998.)

§17282. Damage caused by natural disasters; repairs, alterations, or reconstruction; expedited review and approval process; time limitations

(a) It is the intent of the Legislature to expedite the repair, alteration, and reconstruction of school facilities that have been damaged or destroyed by fire, earthquake, flood, or other manmade or natural disasters, to return those school facilities to a condition that makes them useful to school districts in the least amount of time and at the lowest appropriate cost while maintaining the integrity and safety of the structure as required by the laws of this state.

(b) Notwithstanding any other law, if a school facility has been damaged or destroyed by fire, earthquake, flood, or other manmade or natural disaster, all reviews or approvals required by this article shall be expedited. In no event shall any review or approval exceed 60 days, excluding weekends and holidays, from the date of receipt of all complete plans, specifications, and documentation for the facilities from the district.

(c) If, upon review, the plans or specifications require minor amendment or modification, these minor amendments or modifications shall not delay the completion of the review or approval beyond the 60-day requirement specified in subdivision (b) unless the amendment or modification constitutes a major substantive change affecting the entire project. While any minor amendments or modifications are being undertaken, the remainder of the project shall continue under review so that a timely and adequate review may be completed within the 60-day requirement of subdivision (b).

(d) A state agency that is required to perform any review or approval under this article may hire additional personnel or incur any additional costs necessary to perform the review or approval within the time limits set forth in this section and shall charge the district a fee not to exceed the actual cost of the review or approval.

(e) As used in this section, "damaged" means damages to the extent that occupancy is precluded based upon a report of an architect or a structural engineer and the concurrence of the Department of General Services in the report's conclusion that the occupancy of the premises is precluded.

(f) The expedited review and approval required by this section shall not apply if the documents are not submitted within six months of the damage to, or destruction of, the facilities.

(Added by Stats.1996, c.277 (S.B.1562), § 3, operative Jan. 1, 1998.)

17283. "School building"

"School building" as used in this article means and includes any building used, or designed to be used, for elementary or secondary school purposes and constructed, reconstructed, altered, or added to, by the state or by any city or city and county, or by any political subdivision, or by any school district of any kind within the state, or by any regional occupational center or program created by or authorized to act by an agreement under joint exercise of power, or by the United States government, or any agency thereof.

(Added by Stats.1996, c. 277 (S.B.1562), § 3, operative Jan. 1, 1998.)

§17284. Nonconforming school building; extension of use

Any school building, as defined in Section 17283, operated by a county official, board, or commission which on the effective date of this section is in violation of this article, if compliance therewith was otherwise required, may be continued in use as a school building after June 30, 1975, provided that no building shall be operated after that date unless the county official, board, or commission requests and obtains from the State Allocation Board authority for use of the building for a specific period after that date.

Concurrent with the request the county official, board, or commission shall file with the State Allocation Board a statement or resolution declaring an intention to utilize the building as a school building after June 30, 1975, pending its repair, reconstruction, or replacement.

The State Allocation Board shall not authorize the county official, board, or commission to use the building after June 30, 1975, unless it has first determined that the affected authority has already proceeded with a plan of total repair, reconstruction, or replacement in a timely manner and the contract has been let for any phase of, and work commenced on, the project.

In no event shall the State Allocation Board authorize the use of these unsafe facilities for a period extending beyond the completion of the replacement facilities or beyond June 30, 1977, whichever occurs first.

(Added by Stats. 1996, c.277 (S.B.1562), §3, operative Jan. 1, 1998.)

§17284.5. Nonconforming existing private buildings; use as school buildings; extension of waivers

- (a) Notwithstanding any provision of law to the contrary, any waiver granted by the State Allocation Board to a school district for use of a nonconforming existing private building acquired for conversion for use as a school building, that had not expired prior to January 1, 2000, is hereby extended until January 1, 2002, if the work to make the building a conforming structure commenced prior to January 1, 2001, but had not been completed by that date.

(Added by Stats. 199, c.304(S.B.142), §1. Amended by Stats.2000, c.135(A.B.2539), §32; Stats.2000, c.202(A.B.2811), §1.)

17285. Leased nonconforming buildings

- (a) Notwithstanding any provision of law except Sections 17286, 17287, 17405, and this section, a leased building that does not meet the requirements of Section 17280 may not be used as a school building, as defined in Section 17283, after September 1, 1990.

- (b) A school district may lease a commercial building prior to January 1, 2003, that does not meet the requirements of Section 17280, for use as a school building, as defined in Section 17283, if the governing board of the district finds that all of the following conditions have been

met:

- (1) The building was constructed in accordance with seismic safety standards for commercial buildings constructed within an earthquake zone.
- (2) The building permit for the initial construction of the building was issued on or after January 1, 1990.
- (3) A structural engineer has inspected the building and submitted a report to the governing board of the school district that certifies that the building is in substantial compliance with the requirements of the Field Act. This certification requirement is satisfied if the structural engineer affixes his or her seal of approval to the report and he or she attests in that report that to the best of his or her knowledge:
 - (A) He or she has reviewed the design calculations, construction documents, and the local government construction inspection records of the building to the extent available.
 - (B) He or she has authorized testing and has observed or reviewed the test results and the inspections of an adequate sample of the structure's welds, anchor bolts, and other structural elements.
 - (C) He or she has observed that the overhead nonstructural elements, including, but not limited to, light fixtures, heating, and air-conditioning diffusers are adequately braced or anchored.

The governing board of the school district shall submit the report to the Division of the State Architect for its review. The Division of the State Architect has one month to review the report for compliance with the above requirements, and to provide feedback to the structural engineer regarding any insufficiencies with the report, and whether or not the building is in substantial compliance with the requirements of the Field Act. If the Division of the State Architect does not respond within one month of the final and complete report being submitted, the Division of the State Architect will be deemed to have concurred with the structural engineer's report. A final decision by the governing board of the school district to occupy the building for school purposes shall not occur until the governing board has reviewed and considered the feedback of the Division of the State Architect, or the one month review period has passed.

No member of the governing board of a school district, nor any employee of a school district, shall be held personally liable for injury to persons or damage to property resulting from the fact that the governing board of the school district used a commercial building pursuant to this subdivision for a school and the building was not constructed under the requirements of Section 17280. This exemption from personal liability for members of the governing board and employees of a school district is not intended to limit the liability of the school district for injury to persons or damage to property resulting from the fact that the governing board or any employee of the school district used a commercial building pursuant to this subdivision for a school and the building was not constructed under the requirements of Section 17280. This exemption from personal liability for members of the governing board and employees of a school district is not intended to limit the liability of the school district, the governing board or the

district's employees pursuant to Section 835 of the Government Code. Section 17312 is not applicable to a person who, pursuant to this section, leases or uses a building for a school building that meets the requirements of this section but does not meet the requirements of Section 17280. Approval and use of a building pursuant to subdivision (b) of Section 17285 does not constitute a violation of the Field Act.

(c) A building leased pursuant to Section 17280 may be used after September 1, 1991, as a regional occupational center or program that does not meet the requirements of Section 17280, provided the building satisfies all of the following conditions:

(1) The facility is one of the following:

(A) A single-story, wood-framed structure.

(B) A single-story, light steel frame structure.

(C) A structure for which a structural engineer has submitted a report that certifies that substantial structural hazards do not exist, as to that structure. The governing board of the regional occupational center or program, as provided for under Section 52310.5, shall review the report prior to approval of the lease and may reject the report if there is any evidence of fraud regarding the facts in the report.

(2) The building or structure complies with all applicable local building standards and all applicable local health and safety standards in the community in which it is located.

(3) The governing board of the regional occupational center or program, as provided for under Section 52310.5, certifies to the State Allocation Board that reasonable efforts have been made to locate the regional occupational center or program in facilities that conform to the seismic safety standards set forth in Part 2 (commencing with Section 2-101), Part 3 (commencing with Section 3-089-1), Part 4 (commencing with Section 4-403), and Part 5 (commencing with Section 5-102), of Title 24 of the California Code of Regulations.

(d) On or before September 1, 1994, and every three years thereafter, each governing board of a regional occupational center or program shall report to the State Allocation Board on the facilities utilized for the operation of that center or program and on efforts to place the center or program in facilities that conform to the seismic safety standards described in paragraph (3) of subdivision (b).

(Added by Stats.1996, c. 277 (S.B.1562), § 3, operative Jan. 1, 1998. Amended by Stats.1997, c. 629 (A.B.865), § 1.)

§17286. "School building"; exemption for certain facilities

Where the primary use of either a building or complex within which the building is situated, operated by an official or board of a city, city and county or county, is for purposes other than educational, such as, but not limited to, correctional, forestry, or hospital purposes, the building shall not be considered to be a "school building" within the meaning of Section 17283 notwithstanding any educational use thereof incidental to the primary purpose.

(Added by Stats.1996, c. 277 (S.B. 1562), § 3, operative Jan. 1, 1998.)

§17287. "School building"; exclusion of buildings used for outdoor science, conservation, and forestry classes

For the purposes of this article and Article 6 (commencing with Section 17365), "school building" does not include (a) any building of a school district or county superintendent of schools which is used solely for classes or programs in outdoor science, conservation, and forestry in accordance with Article 5 (commencing with Section 8760) of Chapter 4 of Part 6 and which does not occupy, in whole or in part, the same parcel of land upon which there is situated any school maintained by the district or county superintendent, or (b) agricultural education laboratory facilities used primarily for plant and animal production or the storage of materials, equipment, and supplies involved in this production.

(Added by Stats.1996, c. 277 (S.B.1562), § 3, operative Jan. 1, 1998.)

§17288. Special educational services on university campuses; exemption from school building requirements; notice

(a) Notwithstanding Section 17285, any high school pupil who attends a class or classes on a campus of the University of California or the California State University in order to receive specialized educational services and opportunities authorized by Chapter 6 (commencing with Section 58800) of Part 31 and any adult attending a special education program established pursuant to Part 30 (commencing with Section 56000), is considered a pupil of that campus for the purposes of Article 3 (commencing with Section 17280) of Chapter 3 of Part 10.5. Any building or structure or portion of building or structure that pupils occupy pursuant to this section shall not be considered "school buildings" within the meaning of Section 17283.

(b) The governing board of each school district, each county board of education, or each county superintendent of schools, as appropriate, shall notify, in writing, the parent or guardian of each high school pupil who attends a class or classes authorized by Chapter 6 (commencing with Section 58800) of Part 31 and each adult attending a special education program established pursuant to Part 30 (commencing with Section 56000), prior to the pupil's attendance at the class on a university campus that, although University of California and California State University buildings are required to conform to the rigorous standards of the Uniform Building Code

(UBC), the buildings on the university campuses may not meet the requirements of Article 3 (commencing with Section 17280) of Chapter 3 of Part 10.5. This notice shall accompany, to the greatest extent possible, any existing notification to parents or guardians regarding specialized educational services and opportunities.

(Added by Stats.1996, c.277 (S.B.1562), § 3, operative Jan. 1, 1998.)

§17289. Exemptions for facilities used for independent study; requirements; duration of exemption

In order to provide alternative, community-based educational opportunities through independent study, any school district or county office of education may request an exemption from the State Allocation Board for a building or structure, or portion of a building or structure, from the definition of "school buildings" within the meaning of Section 17283. The exemptions may be granted for no longer than two years and exemptions are renewable. An exemption may only be granted if the school district or county office of education demonstrates to the satisfaction of the State Allocation Board all of the following:

- (a) The building or structure, or portion of building or structure, satisfies all of the following:
 - (1) It is not located on a regular schoolsite.
 - (2) It complies with all applicable local building standards and all relevant local health and safety standards in the community in which it is located.
 - (3) It is used for independent study.
 - (4) It serves fewer than 25 pupils enrolled in kindergarten or any of the grades 1 to 12, inclusive, at any one time in the building or structure, or in a portion of a building or structure where the remainder of the building or structure is not used for instructional purposes.
- (b) The use of the building or structure is critical to providing an effective alternative, community-based program.
- (c) The use of other buildings or structures that would meet seismic safety standards for school facilities is not practical.

(Added by Stats.1996, c.277 (S.B.1562), § 3, operative Jan. 1, 1998.)

§17290. Repealed by Stats.1997, c.320(S.B.708), §1, eff. Aug. 18, 1997, operative Sept. 30, 1997

§17291. Owned relocatable facilities; waiver of provisions; extension; applicability

(a) An owned relocatable building or structure that is to be used for school purposes shall be subject to the provisions of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365).

(b) Notwithstanding any other provision of law, this section shall become operative on September 30, 1997.

(Added by Stats.1996, c.277(S.B.1562), § 3, operative Sept. 30, 1997. Amended by Stats.1997, c.320 (S.B.708), § 2, eff. Aug. 18, 1997, operative Sept. 30, 1997.)

§17292. Use of owned or leased relocatable building as school building; conditions

(a) Notwithstanding any provision of law, an owned or leased relocatable building that does not meet the requirements of Section 17280 may be used until September 30, 2007, as a school building, if all of the following conditions are met:

- (1) The relocatable building was manufactured and was in use for classroom purposes on or before May 1, 2000, and bears a commercial coach insignia of approval from the Department of Housing and Community Development.
- (2) The relocatable building is a single story structure with not more than 2,160 square feet of interior floor area when all sections are joined together.
- (3) The relocatable building was constructed after December 19, 1979, and bears a commercial coach insignia of approval from the Department of Housing and Community Development.
- (4) The bracing and anchoring of interior overhead nonstructural elements, such as light fixtures and heating and air-conditioning diffusers, and the foundation system complies with the applicable rules and regulations adopted pursuant to this article and published in Title 24 of the California Code of Regulations.
- (5) The building construction, including associated site construction, except for the relocatable building defined in paragraph (2), complies with the applicable rules and regulations adopted pursuant to this article, Sections 4450 to 4458, inclusive, of the Government Code, and Section 1343 of the Health and Safety Code and the administrative and building standards published in Title 19 and Title 24 of the California Code of Regulations.
- (6) The Department of General Services has issued a certification of compliance with the requirements of this article.

(b) The Department of General Services may assess fees to carry out the requirements of this section. Fees imposed pursuant to this subdivision shall be equal to the costs associated with making the certifications and inspections required by, and otherwise enforcing, this section and shall be deposited in the Public School Planning, Design, and Construction Review Revolving Fund.

- (c) Any relocatable building that has received a certification of compliance from the Department of General Services pursuant to subdivision (a) shall be reinspected for structural integrity by the Division of the State Architect by December 31, 2002.
 - (d) For each relocatable building that was used as a school building pursuant to this section, the governing board of the school district shall adopt a resolution by October 30, 2007, certifying to the State Allocation Board that commencing September 30, 2007, the relocatable building is no longer being used as a school building.
- (Added by Stats.1996, c.277(S.B.1562), §3, operative Jan. 1, 1998. Amended by Stats.2000, c. 747 (S.B. 1469), §1, eff.Sept.27, 2000.)

§17292.5. Expelled pupils program; operation of program; lease agreements for facilities

(a) If the governing board of a school district operates a program for expelled pupils, the governing board shall do one or more of the following:

(1) Utilize available school facilities that conform to the requirements of Part 2 (commencing with Section 2-101), Part 3 (commencing with Section 3-089-1), Part 4 (commencing with Section 4-403), and Part 5 (commencing with Section 5-102), of Title 24 of the California Code of Regulations.

(2) Apply for emergency portable classrooms pursuant to Chapter 25 (commencing with Section 17085) of Part 10.

(3) Enter into lease agreements for facilities, provided that the facilities are limited to a structure where a structural engineer has submitted a report that determines substantial structural hazards do not exist.

(b) Before entering into any lease pursuant to paragraph (3) of subdivision (a), the governing board of the school district shall certify to the State Allocation Board that all reasonable efforts have been made to locate the program in facilities that conform to the structural safety standards listed in paragraph (1) of subdivision (a).

(c) On or before September 1, 1996, and every three years thereafter, each school district shall report to the State Allocation Board on the facilities utilized for the operation of these programs and efforts to place programs in facilities that conform with the requirements of Part 2 (commencing with Section 2-101), Part 3 (commencing with Section 3-089-1), Part 4 (commencing with Section 4-403), and Part 5 (commencing with Section 5-102), of Title 24 of the California Code of Regulations.

(Added by Stats.1996, c. 277 (S.B.1562), § 3, operative Jan. 1, 1998.)

§17293. Pregnant and parenting teen program; operation of new or expanded program; lease agreements for school facilities

(a) On or after January 1, 1993, if a county superintendent or school district elects to operate a new or expanded pregnant and parenting teen program pursuant to Chapter 6.5 (commencing with Section 8910) of Part 6, the county superintendent or school district may enter into lease agreements for school facilities as set forth in subdivision (b), if both of the following conditions are met:

(1) All available school facilities that conform to the requirements of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17320) have been utilized.

(2) If facilities meeting the requirements of paragraph (1) are not available, the school district or county superintendent of schools has applied to lease or purchase emergency portable classrooms pursuant to Chapter 14 (commencing with Section 17085) of Part 10 and the application was either not approved, or the portable classrooms approved will not meet the needs of the county superintendent of schools or the school district.

(b) Notwithstanding any other provision of law, the county superintendent or the school district may enter into lease agreements as follows:

(1) The lease may be for a period of up to five years if a report and certification of safety is prepared by a structural engineer that verifies that the building meets local safety standards and that substantial structural hazards do not exist. The county board of education or school district governing board, as the case may be, shall review the report and certification prior to the approval of the lease and may reject the report if there is evidence of fraud regarding the facts in the report.

(2) Before entering into any lease, the county superintendent or the school district shall certify that all reasonable efforts have been made to locate programs in facilities that conform to paragraph (1) or (2).

(Added by Stats. 1996, c. 277 (S.B.1562), § 3, operative Jan. 1, 1998.)

For text of section operative upon fulfillment of conditions specified in §13 of Stats.1998, c. 1078 (S.B.1064), see Education Code § 17293, ante.

§17293. Pregnant and parenting teen program; operation of new or expanded program; lease agreements for school facilities

(a) On or after January 1, 1993, if a county superintendent or school district elects to operate a new or expanded pregnant and parenting teen program pursuant to Article 7.1 (commencing with Section 54740) of Chapter 9 of Part 29, the county superintendent or school district may enter into lease agreements for school facilities as set forth in subdivision (b), if both of the following conditions are met:

(1) All available school facilities conform to the requirements of Article 3 (commencing with

Section 17280) and Article 6 (commencing with Section 17320).

(2) If facilities meeting the requirements of paragraph (1) are not available, the school district or county superintendent of schools has applied to lease or purchase emergency portable classrooms pursuant to Chapter 14 (commencing with Section 17085) of Part 10 and the application was either not approved or the portable classrooms approved will not meet the needs of the county superintendent of schools or the school district.

(b) Notwithstanding any other provision of law, the county superintendent or the school district may enter into lease agreements as follows:

(1) A report and certification of safety shall be prepared by a structural engineer that verifies that the building meets local safety standards and that substantial structural hazards do not exist. The county board of education or school district governing board, as the case may be, shall review the report and certification prior to the approval of the lease and may reject the report if there is evidence of fraud regarding the facts in the report. In addition, the county board of education or the governing board of the school district shall cause to be prepared and maintained on file a report and certification of safety by a structural engineer every five years from the date of the initial lease as long as the building continues to be used and a statement that the building continues to meet local safety standards and that structural hazards do not exist.

(2) Before entering into any lease, the county superintendent or the school district shall certify that all reasonable efforts have been made to locate programs in facilities that conform to paragraph (1) or (2) of subdivision (a).

(Added by Stats. 1996, c. 277 (S.B.1562), § 3, operative Jan. 1, 1998; Stats.1998, c. 1078 (S.B.1064), .§ 8.)

For text of section operative upon fulfillment of conditions specified in §13 of Stats.1998, c. 1078 (S

§17293.5. Pregnant and parenting teen education programs: leased buildings

(a) Notwithstanding any other provision of law, if a school district leases a building on a temporary basis for the purposes of housing a pregnant and parenting teen education program, the building shall be exempt from this article and Article 6 (commencing with Section 17365).

(b) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2002, deletes or extends that date.

(Added by Stats.2000, c.65 (A.B. 1830), § 1, operative July 3, 2000)

§17294. "Construction or alteration"

"Construction or alteration" as used in this article includes any construction, reconstruction, or alteration of, or addition to, any school building.

(Added by Stats.1996, c.277 (S.B.1562), § 3, operative Jan. 1, 1998.)

§17295. Required approval of plans by Department of General Services

(a) The Department of General Services shall pass upon and approve or reject all plans for the construction or, if the estimated cost exceeds twenty-five thousand dollars (\$25,000), the alteration of any school building. To enable it to do so, the governing board of each school district and any other school authority before adopting any plans for the school building shall submit the plans to the Department of General Services for approval, and shall pay the fees prescribed in this article.

(b) Notwithstanding subdivision (a) of Section 17295, where the estimated cost of the reconstruction or alteration of, or an addition to, any school building exceeds twenty-five thousand dollars (\$25,000) but does not exceed one hundred thousand dollars (\$100,000), a licensed structural engineer shall examine the proposed project to determine if it is a nonstructural alteration or a structural alteration. If he or she determines that the project is a nonstructural alteration, he or she shall prepare a statement so indicating. If he or she determines that the project is structural, he or she shall prepare plans and specifications for the project which shall be submitted to the Department of General Services for review and approval. A copy of the engineer's report stating that the work does not affect structural elements shall be filed with the Department of General Services.

(c) If a licensed structural engineer submits a report to the Department of General Services stating that the plans or activities authorized pursuant to subdivision (b) do not involve structural elements, then all of the following shall apply to that project:

(1) The design professional in responsible charge of the project undertaken pursuant to this subdivision shall certify that the plans and specifications for the project meet any applicable fire and life safety standards, and do not affect the disabled access requirements of Section 4450 of the Government Code, and shall submit this certification to the department. The letter of certification shall bear the identifying licensing stamp or seal of the design professional. This provision does not preclude a design professional from submitting plans and specifications to the department along with the appropriate fee for review.

(2) Within 10 days of the completion of any project authorized pursuant to subdivision (b), the school construction inspector of record on the project, who is certified by the department to inspect school buildings, shall certify in writing to the department that the reconstruction, alteration, or addition has been completed in compliance with the plans and specifications.

(3) The dollar amounts cited in this section shall be increased on an annual basis, commencing January 1, 1999, by the department according to an inflationary index governing construction costs that is selected and recognized by the department.

(4) No school district shall subdivide a project for the purpose of evading the limitation on amounts cited in this

(d) For purposes of this section, "design professional in responsible charge" or "design professional" means the licensed architect, licensed structural engineer, or licensed civil engineer who is responsible for the completion of the design work involved with the project.

(Added by Stats.1996, c. 277 (S.B.1562), § 3, operative Jan. 1, 1998. Amended by Stats.1997, c. 390 (A.B.611). § 2, eff. Aug. 27, 1997.)

§17296. School-based integrated children's services program facility; exemption

Notwithstanding any other provision of law, any school-based facility providing social services or support services, or health care, that is established through agreements with local governments and school districts pursuant to Chapter 5 (commencing with Section 8800) of Part 6 or as part of an integrated children's services program pursuant to Chapter 12.9 (commencing with Section 18986.40) of Part 6 of Division 9 of the Welfare and Institutions Code, respectively, is located on school property, and meets all the requirements of the Uniform Building Code and has been approved by the building department of the appropriate local jurisdiction, as well as those of the appropriate local jurisdiction, shall not be required to obtain approval of plans by the Department of General Services pursuant to Section 17295.

(Added by Stats.1996, c.277 (S.B.1562), § 3, operative Jan. 1, 1998.)

§17297. Required safety approval by Department of General Services before letting any contract

Except as provided in Section 17298, before letting any contract for any construction or alteration of any school building, the written approval of the plans, as to safety of design and construction, by the Department of General Services, shall be first had and obtained.

(Added by Stats.1996, c.277 (S.B.1562), § 3, operative Jan. 1, 1998.)

§17298. Fabrication, construction or alteration of relocatable school building with previous approval

Before the commencement of any fabrication, construction, or alteration of a relocatable school building of a type previously approved by the Department of General Services, the written approval of the plans, as to the safety and design of construction, by the Department of General Services, shall be first had and obtained.

(Added by Stats.1996, c.277 (S.B.1562), § 3, operative Jan. 1, 1998.)

§17299. Requirements of specifications, structural design computations and cost estimates with plans submitted for approval

In each case the application for approval of the plans shall be accompanied by the plans and full, complete, and accurate specifications, and structural design computations, and estimates of cost, which shall comply in every respect with any and all requirements prescribed by the Department of General Services.

(Added by Stats.1996, c. 277 (S.B.1562), § 3, operative Jan. 1, 1998.)

§17300. Filing fees for submission of plans for approval; rates; installments

(a) The application shall be accompanied by a filing fee in amounts as determined by the Department of General Services based on the estimated cost of the work described in subdivision (a) of Section 17280, according to the following schedule:

(1) For the first one million dollars (\$1,000,000), a fee of not more than 0.7 percent of the estimated cost.

(2) For all costs in excess of one million dollars (\$1,000,000), a fee of not more than 0.6 percent of the estimated cost.

The minimum fee in any case shall be two hundred fifty dollars (\$250). If the actual cost exceeds the estimated cost by more than 5 percent, a further fee shall be paid to the Department of General Services, based on the above schedule and computed on the amount by which the actual cost exceeds the amount of the estimated cost.

(b) The fees determined pursuant to subdivision (a) shall be paid in two installments, as specified by the Department of General Services. The first installment shall be in an amount equal to 70 percent of the estimated cost calculated under subdivision (a), and shall be paid at the time the application is submitted to the department. The second installment shall be in an amount equal to 30 percent of the estimated cost calculated under subdivision (a), and shall be paid no later than five working days after the applicant accepts the bids for construction of the project for which the fees are paid. This subdivision shall become operative January 1, 1994.

(c) The fee shall be paid to the Department of General Services, including, but not limited to, a case in which the application is referred under Section 17306 to a qualified plan review firm.

(Stats.1976, c.1010, §2, operative April 30, 1977; Added by Stats 1996, c. 277 (S.B.1562), § 3, operative Jan. 1, 1998.)

§17301. Public school planning, design, and construction review revolving fund; fees; audits

(a) All fees received by the Department of General Services pursuant to this chapter shall be paid into the State Treasury and credited to the Public School Planning, Design, and Construction Review Revolving Fund, which is hereby created. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are hereby continuously appropriated for expenditure

by the Department of General Services to be applied, in the most efficient and expeditious manner possible, to the expenses associated with the review and approval of plans and specifications, and the supervision of public school building construction, pursuant to this article and Article 5 (commencing with Section 17350). The fees paid into the fund shall not be used for or diverted to any other program or purpose. Notwithstanding any other provision of law, any moneys in the Architecture Public Building Fund on the effective date of this section thereupon shall be transferred to the Public School Planning, Design, and Construction Review Revolving Fund for expenditure in accordance with this section.

Adjustments in the amounts of the fees, as determined by the Department of General Services, may be made by the department within the limits set forth in Sections 17300 and 17352 in order to maintain a reasonable working balance in the fund.

(b) The Department of Finance shall provide for the audit of the fund as needed to ensure that it is used solely for the purposes of this article and that the amount of the fee charged does not exceed what is necessary to cover the costs realized by the Department of General Services in carrying out its responsibilities pursuant to this article. The actual cost of the audit shall be paid from the fund.

(Added by Stats.1996, c.277 (S.B.1562), § 3, operative Jan. 1, 1998.)

§17302. Preparers of plans, specifications, and estimates; qualifications; observation of construction

(a) Except as provided in subdivision (b), all plans, specifications, and estimates shall be prepared by a licensed architect holding a valid certificate under Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code or by a structural engineer holding a valid certificate to use the title structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, and the observation of the work of construction shall be under the responsible charge of such an architect or structural engineer.

(b) For the purposes of this section, a mechanical or electrical engineer holding a valid certificate under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code may be in responsible charge of preparation of plans, specifications, and estimates, and observation of the work of construction where the work is, as determined by the Department of General Services, of the kind normally performed by engineers certified in the particular branch of engineering for which the engineer is certified. Any architectural or structural work involved shall be the respective responsibility of a licensed architect holding a valid certificate under Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, or a structural engineer holding a valid certificate to use the title structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code.

(Added by Stats.1996, c. 277 (S.B.1562), § 3, operative Jan. 1, 1998.)

§17303. Plan review; complete application; methods to reduce time lapse; notice

(a) The Department of General Services shall establish one or more methods to ensure that each application has been completed sufficiently by the applicant to enable the plan review to be performed.

(b) Upon receipt of a complete application, the Department of General Services shall inform the applicant of the period of time that it anticipates to elapse prior to commencing review of the applicant's plans. Within 10 days of being so notified, the applicant shall make an election to either use the Department of General Services for the review of the applicant's plan or, request the plan review be performed by one or more qualified plan review firms pursuant to Sections 17305 and 17306. If the applicant elects to use the services of the Department of General Services for review of the applicant's plan, the department, as necessary to expedite review of the applicant's plans, shall do one or more of the following:

(1) Contract for assistance from one or more qualified plan review firms pursuant to Section 17305.

(2) Employ additional staff on a temporary basis.

(3) Maximize the use of department staff through the use of overtime or other appropriate means.

(4) Any other action determined by the department to have the effect of expediting the review and approval process.

(c) Each application shall identify, for purposes of receiving the notifications required under this subdivision, an employee of the applicant school district and either the applicant's architect or structural engineer. The Department of General Services immediately shall notify that employee, and the identified architect or structural engineer, when each of the following steps in the plan review process occurs:

(1) The department requests the applicant's architect or structural engineer to correct or complete any part of the application.

(2) An application number is assigned to the application.

(3) Review of the applicant's plans is commenced.

(4) Review of the applicant's plans is completed and the department returns the plans to the architect or structural engineer for correction.

(5) Corrected plans are returned to the department by the applicant's architect or structural engineer for final review and approval.

(6) The department approves the plans and causes a final record set of the plans to be printed in accordance with Section 17304.

(d) The Department of General Services may provide additional notifications to applicants as it deems necessary.

(Added by Stats.1996, c. 277 (S.B.1562), § 3, operative Jan. 1, 1998. Amended by Stats.1998, c. 407 (S.B.50), § 9, eff. Aug.27, 1998.)

§17304. Printing of plans; approval letter

(a) Upon approving the plans submitted by an applicant pursuant to this article, the Department of General Services shall cause a final record set of the plans to be printed. The department may contract with one or more private entities to perform that printing at one or more of the regional area offices of the department. The costs incurred pursuant to this subdivision shall be paid by the applicant.

(b) No later than five working days after approving plans submitted by an applicant pursuant to this article, the department shall issue a final letter of approval to the applicant.

(Added by Stats.1996, c.277 (S.B.1562), § 3, operative Jan. 1, 1998.)

§17305. Qualified plan review firms; contracts

(a) Notwithstanding Section 14952 of the Government **Code**, the Department of General Services shall contract with a sufficient number of qualified plan review firms for assistance in performing the plan review required under this article or Article 5 (commencing with Section 17350).

(b) For purposes of this article, "qualified plan review firm" means an individual, firm, or the building official of a city, a county, or a city and county, as defined in Section 18949.27 of the Health and Safety Code or the authorized representative of the building official that is identified by the Department of General Services as having appropriate expertise and knowledge of the requirements that apply to school buildings under this article. The department shall establish and maintain a list of the individuals and firms, and building officials or the authorized representatives of building officials so identified, and shall make that list available, upon request, to school districts and other interested parties.

§17306. Review of application; referral of documents to review firm

(a) Upon submitting a complete application for review under this article, the applicant may request that the Department of General Services refer the documents necessary for the review of that application to a qualified plan review firm operating under contract with the department pursuant to Section 17305. The department immediately shall grant the request and refer the necessary documents to a qualified plan review firm if the applicant so requests. Upon completing the review, the qualified plan review firm shall submit the documents referred to it for the review of the application, together with the results of its review, to the Department of General Services.

(b) The Department of General Services shall establish a procedure governing the use by

applicants of the review process alternative described in this section, including, but not limited to, provisions restricting the use of qualified plan review firms on the basis of conflict of interest.

(Added by Stats.1996, c.277(S.B.1562), §3, operative Jan. 1, 1998. Amended by Stats.1998, c. 407 (S.B.50), §11, eff. Aug. 27, 1998.)

§17307. Compliance with the provisions of this article and approval of the Department of General Services

No contract for the construction or alteration of any school building, made or executed by the governing board of any school district or other public board, body, or officer otherwise vested with authority to make or execute a contract, is valid, and no public money shall be paid for any work done under a contract or for any labor or materials furnished in constructing or altering any building, unless the plans, specifications, and estimates comply in every particular with the provisions of this article and the requirements prescribed by the Department of General Services and unless the approval thereof in writing has first been had and obtained from the Department of General Services.

(Added by Stats.1996, c.277(S.B.1562), §3, operative Jan. 1, 1998.)

§17307.5. Construction work on public schools; issuance of stop work orders; liability

(a) Notwithstanding any provision of law to the contrary, including, but not limited to, Title 15 (commencing with Section 3082) of Part 4 of the Civil Code, the Department of General Services may issue a stop work order when construction work on a public school is not being performed in accordance with existing law and would compromise the structural integrity of the building, thereby endangering the public safety. The Department of General Services shall allow construction of incidental and minor nonstructural additions or nonstructural alterations without invoking its stop work authority.

(b) A school district, county superintendent of schools, county board of education, or other public board, body, or officer whose construction work on a public school is subject to a stop work order issued pursuant to subdivision (a) shall not be held liable in any action filed against the public board, body, or officer for stopping work as required by the stop work order, or for any delays caused by compliance with the stop work order, except to the extent that an error or omission by the public board, body, or officer is the basis for the issuance of the stop work order.

(Added by Stats.2000, c.463(A.B.2791), § 1.)

§17308. Legislative findings; employee training; interpretational materials

(a) The Legislature finds and declares that a number of serious discrepancies in the interpretation

of the structural standards and architectural barrier requirements that apply to school buildings under this chapter, and of the plan review procedures that apply under this chapter, exist within the Department of General Services, and within and between various firms utilized by the department on a contract basis, applicant school districts, and architects and structural engineers utilized by applicant school districts.

(b) The Department of General Services shall provide training, on an ongoing basis, to its employees and to the employees of architectural and structural engineering firms that contract with the department for the purposes of this chapter. The training shall address all phases of the plan review process established under this chapter, and shall be designed to ensure that all individuals who develop and review school building plans obtain sufficient knowledge of the rules, regulations, and standards that apply under this chapter.

(c) The department shall make the training described in subdivision (b) available to the employees of architectural and structural engineering firms that contract with applicant school districts for the purpose of this chapter, and to any other individuals, firms, and government agencies that are involved in school building design, construction, or inspection and that may benefit from the training. The department may charge a fee for training provided pursuant to this subdivision.

(d) The department shall develop and publish interpretations of the structural standards, architectural barrier requirements, and review procedures referred to in subdivision (a) as may be necessary to remedy the interpretational discrepancies described in that subdivision. These interpretational materials shall be updated at least annually.

(Added by Stats.1996, c.277(S.B.1562), §3, operative Jan. 1, 1998.)

§17309. Reports required of architects, engineers, and inspectors; information required

From time to time, as the work of construction or alteration progresses and whenever the Department of General Services requires, the licensed architect or structural engineer in charge of observation of construction or registered engineer in charge of observation of other work, the inspector on the work, and the contractor shall each make to the Department of General Services a report, duly verified by him or her, upon a form prescribed by the Department of General Services, based upon his or her own personal knowledge, indicating that the work during the period covered by the report has been performed and materials have been used and installed, in every material respect, in compliance with the approved plans and specifications, setting forth such detailed statements of fact as are required by the Department of General Services.

The term "personal knowledge" as used in this section and as applied to the architect, and the registered engineer, means the personal knowledge which is obtained from periodic visits to the project site of reasonable frequency for the purpose of general observation of the work, and also which is obtained from the reporting of others as to the progress of the work, testing of materials, inspection and superintendence of the work that is performed between the above-mentioned

periodic visits of the architect or the registered engineer. The exercise of reasonable diligence to obtain the facts is required.

The term "personal knowledge" as applied to the inspector means the actual personal knowledge which is obtained from his or her personal continuous inspection of the work of construction in all stages of its progress at the site where he is responsible for inspection and, when work is carried out away from the site, that personal knowledge which is obtained from the reporting of others on the testing or inspection of materials and workmanship for compliance with plans, specifications or applicable standards. The exercise of reasonable diligence to obtain the facts is required.

The term "personal knowledge" as applied to the contractor means the personal knowledge which is obtained from the construction of the building. The exercise of reasonable diligence to obtain the facts is required.

(Added by Stats.1996, c.277(S.B.1562), §3, operative Jan. 1, 1998.)

§17310. Rules and regulations; building standards

Except as provided in Section 18930 of the Health and Safety Code, the Department of General Services may from time to time make such rules and regulations as it deems necessary, proper, or suitable to carry out the provisions of this article.

The Department of General Services shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety **Code** for the purposes described in this article.

(Added by Stats.1996, c. 277(S.B.1562), §3, operative Jan. 1, 1998.)

§17311. Inspections by Department of General Services and appointed inspector

(a) The Department of General Services shall make such inspection of the school buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this article and the protection of the safety of the pupils, the teachers, and the public. The school district, city, city and county, or the political subdivision within the jurisdiction of which any school building is constructed or altered shall provide for and require competent, adequate, and continuous inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer and the Department of General Services. The inspector shall act under the direction of the governing board and architect or structural engineer as the board may direct. The inspector shall be responsible to the governing board for employment purposes. The inspector shall be responsible to the Department of General Services for enforcement of the plans and specifications of the school project.

(b) In order to ensure the competency and adequacy of the inspectors required under this article, the Department of General Services shall do all of the following:

(1) Revise the examination used to determine the competency of those who provide inspections pursuant to this article. The revision of the examination shall include techniques of inspection, construction, plan reading, required submittal documents, and knowledge of statutes and regulations that apply to school construction. The revision of the examination shall be done not later than 48 months after the last revision and not earlier than 36 months after the last revision.

(2) Provide training on an ongoing basis to all individuals who provide the inspections required under this article. The training shall be designed to ensure that all individuals who provide the continuous inspection of school building construction or alteration are sufficiently knowledgeable of the rules, regulations, and standards that apply under this article.

(3) Require evaluation of the competency of those who provide inspections pursuant to this article. After an initial evaluation a reevaluation shall occur not later than 48 months after the last evaluation or reevaluation and not earlier than 36 months after the last evaluation or reevaluation. An evaluation or reevaluation shall include passage of the examination used to determine competence specified in paragraph (1) and attendance at training specified in paragraph (2).

(c) The Department of General Services may require a fee from all individuals applying for evaluation or reevaluation pursuant to subdivision (b), and a fee for the examination administered in the evaluation or reevaluation. The fees shall not be more than the reasonable costs associated with the development and administration of the examination and the training.

(Added by Stats.1996, c.277(S.B.1562), §3, operative Jan.1, 1998. Amended by Stats.1997, c. 683 (A.B.1537), §1.)

§17312. Violations and false statements

Any person who violates any of the provisions of this article or makes any false statement in any verified report or affidavit required pursuant to this article is guilty of a felony.

(Added by Stats.1996, c.277(S.B.1562), §3, operative Jan. 1, 1998.)

§17313. Structural inspection by Department of General Services upon special request; payment of expenses

Upon written request by the governing board of any school district or upon written request by at least 10 percent of the parents having children enrolled as pupils in any school district as certified to by the county superintendent of schools, the Department of General Services shall make an examination and report on the structural condition of any public school building of the district, subject to the payment by the governing board of the actual expenses incurred by the Department of General Services. Payment of the expenses may be waived by the Department of General Services on recommendation of the State Superintendent of Public Instruction when it appears to him or her that the school district in which the public school building is located cannot afford to pay them.

(Added by Stats.1996, c.277(S.B.1562), §3, operative Jan. 1, 1998.)

§17314. Approval of public school building for occupancy by Department of General Services deemed to meet local building requirements for use as a private school

Any public school building which has been approved by the Department of General Services (formerly Division of Architecture) for occupancy shall be deemed to meet the local building requirements for use as a private school.

(Added by Stats.1996, c.277(S.B.1562), §3, operative Jan. 1, 1998.)

§17315. Certificate of compliance; verified reports

(a) When a school building constructed in accordance with plans and specifications approved by the Department of General Services is completed, the notice of completion is filed, and all final verified reports and all testing and inspection documents, as required by this article or as required by the rules and regulations adopted pursuant to this article, are submitted to and on file with the Department of General Services, and all required fees paid by the school district, the department shall issue a certification that the school building complies with the requirements of this article. Nothing in this article shall prevent beneficial occupancy by a school district prior to the issuance of this certification.

(b) When a school building, constructed in accordance with approved plans and specifications, is completed but final verified reports, as are required under Section 39151, have not been submitted to the Department of General Services due to the incapacitating illness, death, or the default of any persons required to file such reports, the Department of General Services shall, upon written request of the school district, review all of the project records and make such examinations as it deems necessary to enable it to certify that the school building otherwise complies with the requirements of this article. The Department of General Services may request the school district to have made, reported, and verified any other tests and inspections which the department deems necessary to complete its examinations of the construction.

(c) The costs incurred by the Department of General Services in connection with this section shall be paid by the school district. The actual costs to perform the examinations, tests, and inspections shall be an appropriate cost of the project to be paid from the building funds of the district. Certification of the project by the Department of General Services shall be withheld until all the costs have been paid by the school district.

(d) This section shall not relieve any individual of his or her responsibility to file verified reports, as required in Section 17309, or any other documents required by the rules and regulations adopted pursuant to this article. This section shall not abrogate the provisions of Section 17312.

(Added by Stats.1996, c.277 (S.B.1562), §3, operative Jan. 1, 1998.)

§17316. Contracts with structural engineers or architects; required provision making plans, specifications, and estimates the property of the school district

(a) Any contract entered into by and between the governing board of any school district and any certified architect or structural engineer pursuant to Section 17302 shall provide that all plans, including, but not limited to, record drawings, specifications, and estimates prepared pursuant thereto, shall be and remain the property of the school district for the purposes of repair, maintenance, renovation, modernization, or other purposes, only as they relate to the project for which the certified architect or structural engineer was retained. Nothing in this subdivision shall preclude the school district from using the plans, record drawings, specifications, or estimates related to the project for the purposes of additions, alignments, or other development on the site.

(b) The contract set forth in subdivision (a) shall not be construed to transfer or waive the certified architect's or structural engineer's copyrights over these documents, including, but not limited to, all common law, statutory, and other reserved rights, unless the certified architect or structural engineer expressly transfers or waives these rights through the written contract, including, but not limited to, a written addendum or amendment.

(c) Notwithstanding subdivision (a), if the school district proposes to reuse the plans prepared by the architect or engineer within the school district, the contract entered into between the school district and the architect or engineer shall specify the terms and conditions for the reuse.

(Added by Stats.1996, c.277(S.B.1562), §3, operative Jan. 1, 1998. Amended by Stats.2000, c. 348 (A.B.701), §1.)

§17317. Seismic safety inventory of public school buildings; report

The Department of General Services shall, in consultation with the Seismic Safety Commission, conduct an inventory of public school buildings that are concrete tilt-up school buildings and school buildings with nonwood frame walls that do not meet the minimum requirements of the 1976 Uniform Building Code. Priority shall be given to the school buildings identified in the act that added this section that are in the highest seismic risk zones in accordance with the seismic hazard maps of the Division of Mines and Geology of the Department of Conservation.

(b) The Department of General Services shall submit a report by December 31, 2001, to the Legislature and the Governor that summarizes the findings of the seismic safety inventory and makes recommendations about future actions that should be taken to address the problems found by the seismic safety inventory. The report shall not identify individual schoolsites on which inventoried school buildings are located.

(Added by Stats.1999, c.622(A.B.300), §2.)

§17318, 17319. Repealed by Stats. 1996, c. 277 (S.B.1562), §1, operative Jan. 1, 1998

**Article 6 – FITNESS FOR OCCUPANCY
Education Code**

§17365.	Legislative findings and declaration.
§17366	Legislative intent
§17367.	Building examinations; required actions of governing board upon report of unsafe condition
§17368	“School Building”
§17369	Buildings excluded from definition of “school building”.
§17370	Liability of governing board members.
§17371	Limitation on liability of governing board
§17372	Grounds for permitting use of unsafe building
§17373.	Application for funds for repair, reconstruction or replacement; repayment
§17374	Permitted expenditures for completing corrective measures

§17365. Legislative findings and declaration

The Legislature finds and declares as follows: (a) By an urgency act (Stats. 1933, Ch. 59), the Legislature at the 1933 General Session established reasonable minimum standards for the design and construction of new school buildings, as now defined in Section 17283. Although it was not required that then existing school buildings incorporate these standards, it was intended by the

Legislature that in the intervening years continuous progress would be made in the repair, reconstruction or replacement of such school buildings.

(b) Progress toward this end has been outstanding since 1971 as a result of state funds being made available for rehabilitating or replacing structurally unsafe school facilities.

(Added by Stats.1996, c. 277 (S.B.1562), §3, operative Jan. 1, 1998.)

§17366. Legislative intent

It is the intent of the Legislature to reexamine the progress under this article from time to time. To enable it to do so, and to expedite the provision of safe educational facilities for California schoolchildren, the Legislature intends that the governing board of each school district adopt a plan for the orderly repair, reconstruction, or replacement of school buildings not repaired, reconstructed, or replaced in accordance with this article.

(Added by Stats.1996, c. 277(S.B.1562), §3, operative Jan. 1, 1998.)

§17367. Building examinations; required actions of governing board upon report of unsafe condition

The governing board of any school district which has in use for school purposes any school buildings which were not constructed under approved plans and the supervision and inspection requirements of Article 3 (commencing with Section 17280) of this chapter shall have such buildings examined pursuant to this section and shall have completed on or before January 1, 1970, the examination, reporting and estimate requirements of this section and Section 39223.

Whenever an examination of the structural condition of any school building of a school district has been made by the Department of General Services, or by any licensed structural engineer or licensed architect for the governing board of the school district, or under the authorization of law, and a report of the examination, including the findings and recommendations of the agency or person making the examination, has been made to the governing board of the district, and the report shows that the building is unsafe for use, the governing board of the district shall immediately have prepared an estimate of the cost necessary to make such repairs to the building or buildings as are necessary, or, if necessary, to reconstruct or replace the building so that the building when repaired or reconstructed, or any building erected to replace it, shall meet such standards of structural safety as are established in accordance with law. The estimate shall be based on current costs and may include other costs to reflect modern educational needs. Also an estimate of the cost of replacement based on the standards established by the State Allocation Board for area per pupil and cost per square foot, shall be made and reported.

The report required by this section shall include a statement that each of the buildings examined is safe or unsafe for school use. For the purpose of this statement the sole consideration shall be protection of life and the prevention of personal injury at a level of safety

equivalent to that established by Article 3 (commencing with Section 17280) of this chapter and the rules and regulations adopted thereunder, disregarding, insofar as possible, such building damage not jeopardizing life which would be expected from one disturbance of nature of the intensity used for design purposes in said rules and regulations.

The governing board, utilizing the information acquired from the examination and report developed pursuant to this section, shall establish a system of priorities for the repair, reconstruction, or replacement of unsafe school buildings.

(Added by Stats.1996, c. 277 (S.B.1562), §3, operative Jan. 1, 1998.)

§17368. "School building"

"School building" as used in this article shall be limited to any physical structure capable of being occupied by pupils, but shall exclude, (a) any bleacher or grandstand with less than six rows of seats, (b) any building which is used exclusively for warehouse, storage, garage, or districtwide administrative office purposes, into which pupils are not required to enter, and buildings utilized by adult schools for off-campus, voluntary adult education courses or registered apprentice courses, (c) any swimming pool, or (d) any yard or lighting poles or flagpoles or playground equipment which does not exceed 35 feet in height.

"School building" as used in this article excludes any building owned or occupied by a unified school district, high school district, or a county superintendent of schools which is used exclusively for adult education purposes.

If any building so excluded was not constructed in accordance with Article 3 (commencing with Section 17280) of this chapter and was not repaired, reconstructed, or replaced in accordance with this article, there shall be posted in a conspicuous place on such building a public notice stating that such building does not meet the structural standards imposed by law for earthquake safety.

(Added by Stats.1996, c. 277 (S.B.1562), §3, operative Jan. 1, 1998.)

§17369. Buildings excluded from definition of "school building"

"School building" as used in this article excludes any building operated by an official or board of a public entity for purposes other than educational, notwithstanding any educational use thereof incidental to the other primary purpose. For purposes of this section, a public entity includes, but is not limited to, a city, city and county, county, or special district, but does not include a school district or county superintendent of schools.

(Added by Stats.1996, c.277(S.B.1562), §3, operative Jan. 1, 1998.)

§17370. Liability of governing board members

Except as provided in Section 17371, nothing in this article shall be construed as relieving any member of the governing board of a school district of any liability for injury to persons or damage to property imposed by law.

(Added by Stats.1996, c. 277(S.B.1562), §3, operative Jan. 1, 1998.)

§17371. Limitation on liability of governing board

No member of the governing board of a school district shall be held personally liable for injury to persons or damage to property resulting from the fact that a school building was not constructed under the requirements of Article 3 (commencing with Section 17280) of this chapter, if such governing board complies with the provisions of this article. Such limit on liability shall commence when such governing board initiates action to comply with the provisions of Section 17367.

A licensed structural engineer or licensed architect employed by a governing board to examine any school building under this article shall not be held personally liable for injury to persons or damage to property as a result of the structural inadequacy and failure of a building, provided he or she has exercised normal professional diligence in carrying out his or her functions under Article 3 (commencing with Section 39140) of this chapter and the provisions of this article.

(Added by Stats.1996, c.277(S.B.1562), §3, operative Jan. 1, 1998.)

§17372. Grounds for permitting use of unsafe buildings

No school building examined and found to be unsafe for school use pursuant to Section 17367 and not repaired or reconstructed in accordance with the provisions of this article, and no school building which has never met the requirements of Article 3 (commencing with Section 17280) of this chapter, shall be used as a school building for elementary or secondary school purposes after June 30, 1975, unless the governing board of the school district has requested and obtained from the State Allocation Board authority for use of the building for a specific period beyond that date.

Prior to requesting this authority, the governing board shall adopt a resolution declaring the board's intention to utilize the building as a school building after June 30, 1975, pending its repair, reconstruction, or replacement. The State Allocation Board shall not authorize any school district to use a building beyond June 30, 1975, unless it has first determined that the school district has already proceeded with a plan of total repair, reconstruction, or replacement in a timely manner and a contract has been let for any phase of, and work commenced on, the project.

In no event shall the State Allocation Board authorize the use of any unsafe facilities for a period extending beyond the completion of the replacement facilities or beyond June 30, 1977, whichever occurs first.

For purposes of this section, "school building" does not include any portable building. Portable buildings may be used beyond June 30, 1975 to meet temporary housing needs until all repair,

reconstruction or replacement of all district school buildings is complete or until June 30, 1977, whichever occurs first, provided that the governing board of the district has requested and obtained from the State Allocation Board authority for use of such portable buildings. The State Allocation Board may grant this authority only to those districts in which 20 percent or more of the schools are subject to partial or complete reconstruction pursuant to Section 17367. Any portable buildings for which authority is granted for temporary use pursuant to this section shall not be subject to Article 3 (commencing with Section 17280) or Article 6 (commencing with Section 17365) of this chapter during the period of the authorized use.

(Added by Stats.1996, c.277(S.B.1562), §3, operative Jan. 1, 1998.)

§17373. Application for funds for repair, reconstruction or replacement; repayment

Notwithstanding any other provision of this article or Article 9 (commencing with Section 16310) of Chapter 6 of Part 10, whenever a school district does not have funds available to repair, reconstruct, or replace the school buildings referred to in this article or Section 16320, the school district shall apply for any funds that may be necessary to accomplish the repair, reconstruction, or replacement pursuant to Article 9. The school district shall also accept any funds that are disbursed to the district pursuant to Article 9, whether or not the funds constitute the maximum amount applied for, and shall repay the funds in accordance with Article 9. In cases in which funds derived from a tax increase levied pursuant to Section 39230, as amended by Section 147 of Chapter 36 of the Statutes of 1977, or Section 39230.5, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976, are utilized to match amounts disbursed to a school district under an apportionment made pursuant to Article 9 (commencing with Section 16310) of Chapter 6 of Part 10, the disbursement and repayment may be made without the necessity of a vote of the electorate of the district as prescribed in any provision of Chapter 6 (commencing with Section 16000) of Part 10.

(Added by Stats.1996, c.277 (S.B.1562), §3, operative Jan. 1, 1998.)

§17374. Permitted expenditures for completing corrective measures

Any revenue derived from an increase in the rate of tax provided by Section 39230, as amended by Section 147 of Chapter 36 of the Statutes of 1977, prior to July 1, 1975, and which is unexpended on that date, may be used after July 1, 1975, by the governing board of a school district to complete the corrective structural repair, reconstruction, or replacement of any school building subject to Section 17367 which had not been completed on that date.

(Added by Stats.1996, c. 277(S.B. 1562), §3, operative Jan. 1, 1998.)

Article 3 – State-Funded Services
Education Code

§67310 Legislative findings, declarations and intent, equal access to public postsecondary education; other resources; accountability and evaluation.

- (a) The Legislature finds and declares that equal access to public postsecondary education is essential for the full integration of persons with disabilities into the social, political, and economic mainstream of California. The Legislature recognizes the historic underrepresentation of disabled students in postsecondary programs and the need for equitable efforts that enhance the enrollment and retention of disabled students in public colleges and universities in California.
- (b) The Legislature recognizes its responsibility to provide and adequately fund postsecondary programs and services for disabled students attending a public postsecondary institution.
- (c) To meet this responsibility, the Legislature sets forth the following principles for public postsecondary institutions and budgetary control agencies to observe in providing postsecondary programs and services for students with disabilities:
 - (1) The state funded activity shall be consistent with the stated purpose of programs and services for disabled students provided by the California Community Colleges, the California State University, or the University of California, as governed by the statutes, regulations, and guidelines of the community colleges, state university, or the University of California.
 - (2) The state funded activity shall not duplicate services or instruction that are available to all students, either on campus or in the community.
 - (3) The state funded activity shall be directly related to the functional limitations of the verifiable disabilities of the students to be served.
 - (4) The state funded activity shall be directly related to these students' full access to and participation in the educational process.
 - (5) The state funded activity shall have as its goals the independence of disabled students and the maximum integration of these students with other students.
 - (6) The state funded activity shall be provided in the most integrated setting possible, consistent with state and federal law, state policy and funding requirements, and missions and policies of the postsecondary segment, and shall be based on identified student needs.

- (d) It is the intent of the Legislature that, through the state budget process, the public postsecondary institutions request, and the state provide, funds to cover the actual cost of providing services and instruction, consistent with the principles set forth in subdivision (c) to disabled students in their respective postsecondary institutions.
 - (e) All public postsecondary education institutions shall continue to utilize other available resources to support programs and services for disabled students as well as maintain their current level of funding from other sources whenever possible.
 - (f) Pursuant to Section 67312, postsecondary institutions shall demonstrate institutional accountability and clear program effectiveness evaluations for services to students with disabilities.
- (Added by Stats. 1995, c. 758 (A.B.446), § 54.)

Article 7 – APPROVAL Education Code

- §81130. Supervision of design, construction and fire damage repair by Department of General Services.
- §81130.3 Short Title
- §81130.5 Offsite buildings; school building; construction or alteration
- §81130.6 Damage caused by natural disasters; repairs, alterations, or reconstruction; expedited review and approval process; time limitations
- §81131 Repealed
- §81131.5 to 81132 Repealed
- §81133 Approval or rejection; examination; safety; complete plans; cost estimate; filing fee; contract validity; compliance with article
- §81134 Methods to ensure complete application
- §81135. Contracts with qualified plan review firms.
- §81136 Referral of documents to qualified plan review firm
- §81137 Repealed
- §81138 Preparers of plans, specifications, and estimates; qualifications; observatory of construction
- §81140 Repealed
- §81141 Reports required of architects, engineers, and inspectors; information required
- §81142 Rules and regulations; building standards
- §81143 Inspections by Department of General Services and appointed inspector

§81144	Violations and fraudulent false statements
§81146	Approval of public school building for occupation by Department of General Services deemed to meet local building requirements for use as a private school
§81147	Certificates of compliance verified reports
§81149	Purchase of offsite building or facility for school; conditions

§81130. Supervision of construction and certain repairs

(a) The Department of General Services under the police power of the state shall supervise the design and construction of any school building or the reconstruction or alteration of, or addition to, any school building, if not exempted under Section 81133, to ensure that plans and specifications comply with the rules and regulations adopted pursuant to this article and building standards published in Title 24 of the California Code of Regulations, and to ensure that the work of construction has been performed in accordance with the approved plans and specifications, for the protection of life and property. Nothing in this section shall be construed to allow a community college district to perform work with its own forces in excess of the limitations set forth in Article 41 (commencing with Section 20650) of Part 3 of Division 2 of the Public Contract Code.

(b) Whenever repairs due to fire damage must be made to any school building previously approved by the Department of General Services, the approved plans and specifications used in the original work under then existing rules, regulations, and building standards may be used without modification, providing all other provisions of this article are carried out.

(Amended by Stats.1990, c.1372(S.B.1854), §544; Stats.1997, c.390 (A.B.611), §3, eff. Aug. 27, 1997.)

§81130.3. Short title

This article, together with Article 3 (commencing with Section 39140(sic)) and Article 6 (commencing with Section 39210(sic)) of Chapter 2 of Part 23, shall be known and may be cited as the "Field Act."

(Added by Stats.1992, c. 341 (S.B. 1612) §9.)

§81130.5. Offsite buildings; school building; construction or alteration

(a) This article does not apply to an offsite building during the time the building is used wholly or in part for community college purposes, if the building is neither owned by a community college district nor leased by a community college district under a lease containing an option to purchase that building. For the purposes of this section, an "offsite building" is a building that is situated on land which is neither owned by a community college district nor leased by a community college district under a lease containing an option to purchase the land.

(b) "School building," as used in this article, means and includes any building used, or designed to be used, for community college purposes and constructed, reconstructed, altered, or added to, by the state or by any city or city and county, by any political subdivision, by any district of any kind within the state, by any regional occupational center or program created by or authorized to act by an agreement under joint exercise of power, or by the United States government, or any agency thereof.

(c) Where the primary use of either a building or complex within which the building is situated, operated by an official or board of a city, city and county, or county, is for purposes other than educational, such as, but not limited to, correctional, forestry, or hospital purposes, the building shall not be considered to be a "school building" as defined in this section, notwithstanding any educational use thereof incidental to the primary purpose.

(d) For the purposes of this article and Article 8 (commencing with Section 81160), "school building" does not include any of the following:

(1) Any building of a community college district that is used solely for classes or programs in outdoor science, conservation, and forestry and that does not occupy, in whole or in part, the same parcel of land upon which there is situated any school maintained by the district.

(2) Agricultural facilities that were not built for classroom purposes and that are used primarily for plant and animal production or the storage of materials, equipment, and supplies involved in that production.

(3) Animal kennels and facilities used to house animals as part of an animal health instruction program.

(e) "Construction or alteration," as used in this article, includes any construction, reconstruction, or alteration of, or addition to, any school building.

(Amended by Stats.1990, c.1372 (S.B.1854), §545; Stats.1995, c.758 (A.B.446), §110.)

§81130.6. Damage caused by natural disasters; repairs, alterations, or reconstruction; expedited review and approval process; time limitations

(a) It is the intent of the Legislature to expedite the repair, alteration, and reconstruction of community college facilities that have been damaged or destroyed by fire, earthquake, flood, or other manmade or natural disasters, to return those community college facilities to a condition that makes them useful to community college districts in the least amount of time and at the lowest appropriate cost while maintaining the integrity and safety of the structure as required by the laws of this state.

(b) Notwithstanding any other law, if a community college has been damaged or destroyed by fire, earthquake, flood, or other manmade or natural disaster, all reviews or approvals required by this article shall be expedited. In no event shall any review or approval exceed 60 days, excluding weekends and holidays, from the date of receipt of all complete plans, specifications, and documentation for the facilities from the district.

(c) If, upon review, the plans or specifications require minor amendment or modification, these

minor amendments or modifications shall not delay the completion of the review or approval beyond the 60-day requirement specified in subdivision (b) unless the amendment or modification constitutes a major substantive change affecting the entire project. While any minor amendments or modifications are being undertaken, the remainder of the project shall continue under review so that a timely and adequate review may be completed within the 60-day requirement of subdivision (b).

(d) A state agency that is required to perform any review or approval under this article may hire additional personnel or incur any additional costs necessary to perform the review or approval within the time limits set forth in this section and shall charge the district a fee not to exceed the actual cost of the review or approval.

(e) As used in this section, "damaged" means damages to the extent that occupancy is precluded based upon a report of an architect or a structural engineer and the concurrence of the Department of General Services in the report's conclusion that the occupancy of the premises is precluded.

(f) The expedited review and approval required by this section shall not apply if the documents are not submitted within six months of the damage to, or destruction of, the facilities.

(Added by Stats.1995-96, 1st Ex.Sess., c.7(S.B.1854), §2, eff. Oct, 10, 1995.)

§81133. Approval or rejection; examination; safety; complete plans; cost estimate; filing fee; contract validity; compliance with article

(a) The Department of General Services shall pass upon and approve or reject all plans for the construction or, if the estimated cost exceeds twenty-five thousand dollars (\$25,000), the alteration of any school building. To enable it to do so, the governing board of each community college district and any other school authority before adopting any plans for the school building shall submit the plans to the Department of General Services for approval, and shall pay the fees prescribed in this article.

(b) Notwithstanding subdivision (a) where the estimated cost of reconstruction or alteration of, or addition to, a school building exceeds twenty-five thousand dollars (\$25,000), but does not exceed one hundred thousand dollars (\$100,000), a licensed structural engineer shall examine the proposed project to determine if it is a nonstructural alteration or a structural alteration. If he or she determines that the project is a nonstructural alteration, he or she shall prepare a statement so indicating. If he or she determines that the project is structural, he or she shall prepare plans and specifications for the project which shall be submitted to the Department of General Services for review and approval. A copy of the engineer's report stating that the work does not affect structural elements shall be filed with the Department of General Services.

(c) If a licensed structural engineer submits a report to the Department of General Services stating that the plans or activities authorized pursuant to subdivision (b) do not involve structural elements, then all of the following shall apply to that project:

(1) The design professional in responsible charge of the project undertaken pursuant to this subdivision shall certify that the plans and specifications for the project meet any applicable fire and life safety standards, and do not affect the disabled access requirements of Section 4450 of the Government Code, and shall submit this certification to the department. The letter of certification shall bear the identifying licensing stamp or seal of the design professional. This provision does not preclude a design professional from submitting plans and specifications to the department along with the appropriate fee for review.

(2) Within 10 days of the completion of any project authorized pursuant to subdivision (b), the school construction inspector of record on the project, who is certified by the department to inspect school buildings, shall certify in writing to the department that the reconstruction, alteration, or addition has been completed in compliance with the plans and specifications.

(3) The dollar amounts cited in this section shall be increased on an annual basis, commencing January 1, 1999, by the department according to an inflationary index governing construction costs that is selected and recognized by the department.

(4) No school district shall subdivide a project for the purpose of evading the limitation on amounts cited in this section.

(5) Before letting any contract for any construction or alteration of any school building, the written approval of the plans, as to safety of design and construction, by the Department of General Services, shall first be had and obtained.

(6) In each case the application for approval of the plans shall be accompanied by the plans and full, complete, and accurate specifications, and structural design computations, and estimates of cost, which shall comply in every respect with any and all requirements prescribed by the Department of General Services.

(7) The application shall be accompanied by a filing fee in amounts as determined by the Department of General Services based on the estimated cost according to the following schedule:

(A) For the first one million dollars (\$1,000,000), a fee of not more than 0.7 percent of the estimated cost.

(B) For all costs in excess of one million dollars (\$1,000,000), a fee of not more than 0.6 percent of the estimated cost.

The minimum fee in any case shall be two hundred fifty dollars (\$250). If the actual cost exceeds the estimated cost by more than 5 percent, a further fee shall be paid to the Department of General Services, based on the above schedule and computed on the amount by which the actual cost exceeds the amount of the estimated cost.

(8) All fees shall be paid into the State Treasury and credited to the Division of Architecture Public Building Fund, which fund is continued in existence and is retitled the Architecture Public Building Fund, and are continuously appropriated, without regard to fiscal years, for the use of the Department of General Services, subject to approval of the Department of Finance, in carrying out the provisions of this article.

Adjustments in the amounts of the fees, as determined by the Department of General Services

and approved by the Department of Finance, shall be made within the limits set in subdivision (j) in order to maintain a reasonable working balance in the fund.

(9) No contract for the construction or alteration of any school building, made or executed by the governing board of any community college district or other public board, body, or officer otherwise vested with authority to make or execute this contract, is valid, and no public money shall be paid for any work done under this contract or for any labor or materials furnished in constructing or altering the building, unless the plans, specifications, and estimates comply in every particular with the provisions of this article and the requirements prescribed by the Department of General Services and unless the approval thereof in writing has first been had and obtained from the Department of General Services.

(d) For purposes of this section, "design professional in responsible charge" or "design professional" means the licensed architect, licensed structural engineer, or licensed civil engineer who is responsible for the completion of the design work involved with the project.

(Amended by Stats.1990, c.1372 (S.B.1854), §550; Stats.1997, c.390(A.B.611), §4, eff.Aug.27, 1997.)

§81133.5. Construction work on community colleges; issuance of stop work orders; liability

(a) Notwithstanding any provision of law to the contrary, including, but not limited to, Title 15 (commencing with Section 3082) of Part 4 of the Civil Code, the Department of General Services may issue a stop work order when construction work on a community college is not being performed in accordance with existing law and would compromise the structural integrity of the building, thereby endangering the public safety. The Department of General Services shall allow construction of incidental and minor nonstructural additions or nonstructural alterations without invoking its stop work authority.

(b) A community college district or other public board, body, or officer whose construction work on a community college is subject to a stop work order issued pursuant to subdivision (a) shall not be held liable in any action filed against the public board, body, or officer for stopping work as required by the stop work order, or for any delays caused by compliance with the stop work order, except to the extent that an error or omission by the public board, body, or officer is that basis for the issuance of the stop work order.

(Added by Stats.2000, c.463 (A.B. 2791), §2.)

§81134. Methods to ensure complete application

(a) The Department of General Services shall establish one or more methods to ensure that each application has been completed sufficiently by the applicant to enable the plan review to be

performed.

(b) Upon receipt of a complete application, the Department of General Services shall inform the applicant of the period of time that it anticipates to elapse prior to commencing review of the applicant's plans. Within 10 days of being so notified, the applicant shall make an election to either use the Department of General Services for the review of the applicant's plans or, request the plan review be performed by one or more qualified plan review firms pursuant to Sections 81135 and 81136. If the applicant elects to use the services of the Department of General Services for review of the applicant's plans, the department shall, as necessary to expedite review of the applicant's plans do one or more of the following:

(1) Contract for assistance from one or more qualified plan review firms pursuant to Sections 81135 and 81136.

(2) Employ additional staff on a temporary basis.

(3) Maximize the use of department staff through the use of overtime or other appropriate means.

(4) Any other action determined by the department to have the effect of expediting the review and approval process.

(c) Each application shall identify, for purposes of receiving the notifications required under this subdivision, an employee of the applicant community college district and either the applicant's architect or structural engineer. The Department of General Services immediately shall notify that employee, and the identified architect or structural engineer, when each of the following steps in the plan review process occurs:

(1) The department requests the applicant's architect or structural engineer to correct or complete any part of the application.

(2) An application number is assigned to the application.

(3) Review of the applicant's plans is commenced.

(4) Review of the applicant's plans is completed and the department returns the plans to the architect or structural engineer for correction.

(5) Corrected plans are returned to the department by the applicant's architect or structural engineer for final review and approval.

(6) The department approves the plans and causes a final record set of the plans to be printed in accordance with Section 17304.

(d) The Department of General Services may provide additional notifications to applicants as it deems necessary.

(Added by Stats.1998, c. 407 (S.B.50), §13, eff. Aug. 27, 1998.)

§81135. Contracts with qualified plan review firms

(a) Notwithstanding Section 14952 of the Government Code, the Department of General Services

shall contract with sufficient numbers of qualified plan review firms for assistance in performing the plan review required under this article or Article 5 (commencing with Section 17350).

(b) For purposes of this article, "qualified plan review firm" means an individual, firm, or the building official of a city, county, or city and county, as defined in Section 18949.27 of the Health and Safety Code or the authorized representative of that building official that is identified by the Department of General Services as having appropriate expertise and knowledge of the requirements that apply to school buildings under this article. The department shall establish and maintain a list of the individuals firms, and building officials or the authorized representatives of building officials so identified, and shall make that list available, upon request, to community college districts and other interested parties.

(Added by Stats.1998, c.407 (S.B.50), §14, eff. Aug.27, 1998.)

§81136. Referral of documents to qualified plan review firm

(a) Upon submitting a complete application for review under this article, the applicant may request that the Department of General Services refer the documents necessary for the review of that application to a qualified plan review firm operating under contract with the department pursuant to Section 81135. The department immediately shall grant the request and refer the necessary documents to a qualified plan review firm if the applicant so requests. Upon completing the review, the qualified plan review firm shall submit the documents referred to it for the review of the application, together with the results of its review, to the Department of General Services.

(b) The Department of General Services shall establish a procedure governing the use by applicants of the review process alternative described in this section, including, but not limited to, provisions restricting the use of qualified plan review firms on the basis of conflict of interest.

(Added by Stats.1998, c. 407(S.B.50), §15, eff. Aug.27, 1998.)

§81137. Repealed by Stats.1990, c.1372(S.B.1854), §554

§81138. Preparers of plans, specifications, and estimates; qualifications; observatory of construction

(a) Except as provided in subdivision (b), all plans, specifications, and estimates shall be prepared by a licensed architect holding a valid certificate under Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code or by a structural engineer holding a valid certificate to use the title structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, and the observation of the work of construction shall be under the responsible charge of such an architect or structural engineer.

(b) For the purposes of this section, a mechanical or electrical engineer holding a valid certificate under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code may be in responsible charge of preparation of plans, specifications, and estimates, and observation of the work of construction where the work is, as determined by the Department of General Services, of the kind normally performed by engineers certified in the particular branch of engineering for which the engineer is certified. Any architectural or structural work involved shall be the respective responsibility of a licensed architect holding a valid certificate under Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, or a structural engineer holding a valid certificate to use the title structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code.

(Stats.1976, c.1010, §2, operative April 30, 1977. Amended by Stats. 1982, c.735, p. 2921, §3.)
§81140. Repealed by Stats.1990, c.1372(S.B.1854), §555

§81141. Reports required of architects, engineers, and inspectors; information required

From time to time, as the work of construction or alteration progresses and whenever the Department of General Services requires, the licensed architect or structural engineer in charge of observation of construction or registered engineer in charge of observation of other work, the inspector on the work, and the contractor shall each make to the Department of General Services a report, duly verified by him or her, upon a form prescribed by the Department of General Services, based upon his or her own personal knowledge, indicating that the work during the period covered by the report has been performed and materials have been used and installed, in every material respect, in compliance with the approved plans and specifications, setting forth detailed statements of fact that are required by the Department of General Services.

"Personal knowledge," as used in this section and as applied to the architect and the registered engineer, means the personal knowledge that is obtained from periodic visits to the project site of reasonable frequency for the purpose of general observation of the work, and also that is obtained from the reporting of others as to the progress of the work, testing of materials, inspection and superintendence of the work that is performed between the above-mentioned periodic visits of the architect or the registered engineer. The exercise of reasonable diligence to obtain the facts is required.

"Personal knowledge," as applied to the inspector, means the actual personal knowledge that is obtained from his or her personal, continuous inspection of the work of construction in all stages of its progress at the site where he or she is responsible for inspection and, when work is carried out away from the site, personal knowledge that is obtained from the reporting of others on the testing or inspection of materials and workmanship for compliance with plans, specifications, or applicable standards. The exercise of reasonable diligence to obtain the facts is required.

"Personal knowledge," as applied to the contractor, means the personal knowledge that is

obtained from the construction of the building. The exercise of reasonable diligence to obtain the facts is required.

(Amended by Stats.1995, c.758 (A.B.446), §111.)

§81142. Rules and regulations; building standards

Except as provided in Section 18930 of the Health and Safety Code, the Department of General Services may from time to time make such rules and regulations as it deems necessary, proper, or suitable to carry out the provisions of this article.

The Department of General Services shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code for the purposes described in this article.

(Stats.1976, c.1010, §2, operative April 30, 1977. Amended by Stats. 1979, c. 1152, p. 4226, §8.)

§81143. Inspections by Department of General Services and appointed inspector

The State Department of General Services shall make such inspection of the school buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this article and the protection of the safety of the students, the instructors, and the public. The community college district, city, city and county, or the political subdivision within the jurisdiction of which any school building is constructed or altered shall provide for and require competent, adequate, and continuous inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer and the Department of General Services. The inspector shall act under the direction of the architect or structural engineer as the board may direct, and be responsible to the governing board.

(Stats.1976, c.1010, §2, operative April 30, 1977.)

§81144. Violations and fraudulent false statements

Any person who knowingly violates any of the provisions of this article or fraudulently makes any false statement in any verified report or affidavit required pursuant to this article, is guilty of a felony.

(Stats.1976, c.1010, §2, operative April 30, 1977. Amended by Stats.981, c.470, p.1767, §219.)

§81146. Approval of public school building for occupation by Department of General Services deemed to meet local building requirements for use as a private school

Any public school building which has been approved by the Department of General Services for

occupancy shall be deemed to meet the local building requirements for use as a private school.

(Stats.1976, c.1010, §2, operative April 30, 1977.)

§81147. Certificates of compliance verified reports

(a) When a school building constructed in accordance with plans and specifications approved by the Department of General Services is completed, the notice of completion is filed, and all final verified reports and all testing and inspection documents, as required by this article or as required by the rules and regulations adopted pursuant to this article, are submitted to and on file with the Department of General Services, and all required fees paid by the community college district, the department shall issue a certification that the school building complies with the requirements of this article. Nothing in this article shall prevent beneficial occupancy by a community college district prior to the issuance of this certification.

(b) When a school building, constructed in accordance with approved plans and specifications, is completed but final verified reports, as are required under Section 81141, have not been submitted to the Department of General Services due to the incapacitating illness, death, or the default of any persons required to file such reports, the Department of General Services shall, upon written request of the community college district, review all of the project records and make such examinations as it deems necessary to enable it to certify that the school building otherwise complies with the requirements of this article. The Department of General Services may request the community college district to have made, reported, and verified any other tests and inspections which the department deems necessary to complete its examinations of the construction.

(c) The costs incurred by the Department of General Services in connection with this section shall be paid by the community college district. The actual costs to perform the examinations, tests, and inspections shall be an appropriate cost of the project to be paid from the building funds of the district. Certification of the project by the Department of General Services shall be withheld until all the costs have been paid by the community college district.

(d) This section shall not relieve any individual of his or her responsibility to file verified reports, as required in Section 81141, or any other documents required by the rules and regulations adopted pursuant to this article. This section shall not abrogate the provisions of Section 81144.

(Added by Stats.1982, c.73, p. 2921, §4.)

§81149. Purchase of offsite building or facility for school; conditions

(a) Notwithstanding any provision of law, a community college district may acquire for use any facility previously used by the United States military and closed as a result of action by the federal Defense Base Closure and Realignment Commission, or purchase any offsite building

constructed prior to January 1, 1998 that meets the structural requirements of the 1976 Uniform Building Code, or subsequent additions to that code, but that does not meet the requirements of Section 81130, for use as a school building, as defined in Section 81130.5, if the governing board of the district finds that all of the following conditions have been met:

(1) A structural engineer has inspected the building or facility and submitted a report to the governing board of the community college district that certifies that the building or facility is in substantial compliance with the requirements of this article, or describes in detail any structural modifications necessary to render the building or facility in substantial compliance with this article.

For purposes of this section, substantial compliance with this article means that the building or facility is likely to resist, without catastrophic collapse, earthquake forces generated by major earthquakes of the intensity and severity of the strongest experienced in California, but may experience some reparable architectural or structural damage. This requirement is satisfied if the structural engineer affixes his or her seal of approval to the report and he or she attests in that report that to the best of his or her knowledge:

(A) He or she has reviewed the design calculations, construction documents, and the local government construction inspection records of the building or facility, to the extent those items are available.

(B) He or she has authorized testing and has observed or reviewed the test results and the inspections of an adequate sample of the structure's welds, anchor bolts, and other structural elements.

(C) He or she has observed that the nonstructural elements, including, but not limited to, light fixtures, heating, and air-conditioning diffusers are adequately braced or anchored.

(2) The governing board of the community college district shall forward the report submitted pursuant to paragraph (1) to the Department of General Services for its review. Within 45 working days, the Department of General Services shall review the report for compliance with the above requirements, to provide feedback to the structural engineer regarding any insufficiencies with the report, and to determine whether or not the building or facility is in substantial compliance with the requirements of this article, or whether any proposed structural modifications will render the structure in substantial compliance with this article. If the Department of General Services does not respond within 45 working days of the submission of the final and complete report, the department will be deemed to have concurred with the structural engineer's report. If structural modifications are necessary to achieve substantial compliance with this article, plans shall be submitted to the department for review and approval. Construction shall be completed in compliance with the continuous inspection requirements of this article.

(b) (1) No member of the governing board of a community college district, and no employee of a community college district, shall be held personally liable for injury to persons or damage to property resulting from the fact that the governing board of the community college district

purchased a building or facility pursuant to this subdivision for a school and the building or facility was not constructed pursuant to the requirements of Section 81130.

(2) The exemption from personal liability for members of the governing board and employees of a community college district described in paragraph (1) does not limit the liability of the community college district for injury to persons or damage to property resulting from the fact that the governing board or any employee of the community college district used a building or facility pursuant to this subdivision for a school if the building or facility was not constructed pursuant to the requirements of Section 81130. The exemption from personal liability for members of the governing board and employees of a community college district described in paragraph (1) does not limit the liability of the community college district, the governing board, or the district's employees pursuant to Section 835 of the Government Code.

(3) Section 81144 is not applicable to a person who, pursuant to this section, purchases a building or facility that meets the requirements of this section but does not meet the requirements of Section 81130. Approval and use of a building or facility pursuant to this section does not violate this article.

(Added by Stats.1998, c.610(A.B.425), §1. Amended by Stats. 1999, c. 179(A.B.861), §1.)

PRIVATELY FUNDED BUILDINGS AND FACILITIES

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§19952. Seating or accommodations in various locations within facility; removable seats; application; construction

(a) Any person, or public or private firm, organization, or corporation, who owns or manages places of public amusement and resort including theaters, concert halls, and stadiums shall provide seating or accommodations for physically disabled persons in a variety of locations within the facility, to the extent that this variety can be provided while meeting fire and panic safety requirements of the State Fire Marshal, so as to provide these persons a choice of admission prices otherwise available to members of the general public.

(b) Readily removable seats may be installed in wheelchair spaces when the spaces are not required to accommodate wheelchair users.

(c) The requirements of this section shall apply with respect to publicly and privately owned facilities or structures for the purposes specified in subdivision (a) for which a building permit or a building plan for new construction has been issued on or after January 1, 1985.

(d) In no case shall this section be construed to prescribe a lesser standard of accessibility or usability than provided by the Accessibility Guidelines prepared by the federal Access Board and adopted by the United States Department of Justice to implement the Americans with Disabilities Act of 1990 (Public Law 101-336).

(Added by Stats.1983, c. 781 §1. Amended by Stats.1992, c. 913 (A.B. 1077) §35; Stats.1993, c. 1214 (A.B. 551) §6.)

§19953. Injunctions; attorney fees

Any person who is aggrieved or potentially aggrieved by a violation of this part, Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code, or Part 5.5 (Commencing with Section 19955) of Division 13 of the Health and Safety Code may bring an action to enjoin the violation. The prevailing party in the action shall be entitled to recover reasonable attorney's fees.

(Added by Stats.1983, c. 781 §1.)

§19954. Injunctions; persons who may bring action

The district attorney, the city attorney, the Department of Rehabilitation acting through the Attorney General, or the Attorney General may bring an action to enjoin any violation of this part.

(Added by Stats.1983, c. 781 §1.)

B. ACCESS TO PUBLIC ACCOMMODATIONS BY PHYSICALLY HANDICAPPED PERSONS

Health and Safety Code

- §19955. Purpose
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§19955. Purpose

(a) The purpose of this part is to insure that public accommodations or facilities constructed in this state with private funds adhere to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code. For the purposes of this part "public accommodation or facilities" means a building, structure, facility, complex, or improved area which is used by the general public and shall include auditoriums, hospitals, theaters, restaurants, hotels, motels, stadiums, and convention centers.

As used in this section, "hospitals" includes, but is not limited to, hospitals, nursing homes, and convalescent homes.

When sanitary facilities are made available for the public, clients, or employees in such accommodations or facilities, they shall be made available for the physically handicapped.

Any new requirements imposed by the amendments to this section enacted by the Legislature at its 1973-74 Regular Session shall only apply to public accommodations or facilities constructed

on or after the effective day of the amendments.

(Added by Stats.1969, c. 1560 §1, operative July 1, 1970. Amended by Stats.1971, c. 821 §1; Stats.1972, c. 488 §1; Stats.1973, c. 931 §1, effective September 30, 1973.)

§19955.3. Definitions

As used in this part:

(a) "Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under-floor space is more than six feet above grade for more than 50 percent of the total perimeter or is more than 12 feet above grade at any point, the basement or unused under-floor space shall be considered as a story.

(b) "First story" means the lowest story in a building which qualifies as a story and which provides the basic services or functions for which the building is used. A floor level in a building having only one floor level shall be classified as a first story, if the floor level is not more than four feet below grade, for more than 50 percent of the total perimeter, or more than eight feet below grade at any point.

(c) "Mezzanine" means an intermediate floor placed in any story or room. When the total area of any "mezzanine floor" exceeds 33 1/3 percent of the total floor area in that room, it shall be considered as constituting an additional "story". The clear height above and below a "mezzanine floor" construction shall be not less than seven feet.

(d) "Grade" means the lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and a line five feet from the building.

(Added by Stats.1982, c. 1416 §1.)

§19955.5. Access to passenger vehicle service stations, shopping centers, physicians' and surgeons' offices, and office buildings constructed with private funds; prospective application of section

All passenger vehicle service stations, shopping centers, offices of physicians and surgeons, and office buildings constructed in this state with private funds shall adhere to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code. As used in this section, "office building" means a structure wherein commercial activity or service is performed or a profession is practiced, or wherein any combination thereof is performed or practiced in all or the majority of the building or structure.

When sanitary facilities are made available for the public, clients, or employees in these stations, centers, or buildings, they shall be made available for persons with disabilities.

Any new requirements imposed by the amendments to this section by Chapter 931 of the Statutes of 1973 shall only apply to those stations, centers, or office buildings constructed on or after September 30, 1973. Any other new requirements imposed by amendments to this section by Chapter 995 of the Statutes of 1974 shall only apply to those offices or office buildings constructed on or after January 1, 1975.

(Added by Stats.1971, c. 821 §2. Amended by Stats.1973, c. 931 §2, effective September 30, 1973; Stats.1974, c. 995 §4; Stats.1982, c. 1416 §2; Stats.1993, c. 1220 (A.B.1138), §3.)

§19956. Conformity with Government Code provisions; exceptions

All public accommodations constructed in this state shall conform to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code. However, the following types of privately funded multistory buildings do not require accessibility by ramp or elevator above and below the first floor:

(a) Multistoried office buildings, other than the professional office of a health care provider, and passenger vehicle service stations less than three stories high, or less than 3,000 square feet per story.

(b) Any other privately funded multistoried building that is not a shopping center, shopping mall, or the professional office of a health care provider, and that is less than three stories high or less than 3,000 square feet per story if a reasonable portion of all facilities and accommodations normally sought and used by the public in such a building are accessible to and usable by persons with disabilities.

(Added by Stats.1969, c. 1560 §1, operative July 1, 1970. Amended by Stats.1982, c. 1416 §3; Stats.1993, c. 1220 (A.B.1138) §4.)

§19956.5. Public curb or sidewalk constructed with private funds

Any curb or sidewalk intended for public use that is constructed in this state with private funds shall conform to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code.

This section shall apply, but not be limited in application, to any curb or sidewalk which after construction with private funds will be turned over to a city or county for public use, in order to

provide full and easy access to, and use of, such curb or sidewalk by the physically handicapped.

(Added by Stats.1972, p. 1889, c. 1018, §1.)

§19957. Exceptions from literal requirements of standards and specifications in hardship, etc., cases

In cases of practical difficulty, unnecessary hardship, or extreme differences, a building department responsible for the enforcement of this part may grant exceptions from the literal requirements of the standards and specifications required by this part or permit the use of other methods or materials, but only when it is clearly evident that equivalent facilitation and protection are thereby secured.

(Added by Stats.1969, c. 1560, p. 3166, §1, operative July 1, 1970.)

§19957.5. Local appeals board; jurisdiction; members; duties

(a) Every city, county, or city and county may appoint a local appeals board composed of five members to hear written appeals brought by any person regarding action taken by the building department of the city, county, or city and county in enforcement of the requirements of this part including the exceptions contained in Section 19957.

(b) Two members of the appeals board shall be physically handicapped persons, two members shall be persons experienced in construction, and one member shall be a public member.

(c) The appeals board shall conduct hearings on written appeals made under Subdivision (a) and may approve or disapprove interpretations of this part and enforcement actions taken by the building department of the city, county, or city and county. All such approvals or disapprovals shall be final and conclusive as to the building department in the absence of fraud or prejudicial abuse of discretion. The appeals board shall adopt regulations establishing procedural rules and criteria for the carrying out of its duties under this part.

(Added by Stats.1976, c. 700, p.1714, §1.)

§19958. Enforcement; building department defined

The building department of every city, county, or city and county shall enforce this part within the territorial area of its city, county, or city and county. The responsibility for enforcing Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code in its application under this part shall be by such building department within the territorial area of its city, county, or city and county.

"Building department" means the department, bureau, or officer charged with the enforcement of laws or ordinances regulating the erection or construction, or both the erection and construction, or buildings.

(Added by Stats.1969, c. 1560, p.3166, §1, operative July 1, 1970.)

§19958.5. Violations; injunction; district or city attorney, attorney general

The district attorney, the city attorney, the Department of Rehabilitation acting through the Attorney General, or the Attorney General may bring an action to enjoin a violation of this part.

(Added by Stats.1976, c. 869, p.1979, §3.)

§19959. Alteration of existing public accommodations

Every existing public accommodation constructed prior to July 1, 1970, which is not exempted by Section 19956, shall be subject to the requirements of this chapter when any alterations, structural repairs or additions are made to such public accommodation. This requirement shall only apply to the area of specific alteration, structural repair or addition and shall not be construed to mean that the entire building or facility is subject to this chapter.

(Added by Stats.1971, c. 1458, p.2875, §2. Amended by Stats.1974, c. 545, p.1290, §72.)

C. DOUBLE DOORS

Health and Safety Code

§13011. Double doors

Both doors of any double doors designated as the public entrance to any place of business shall be kept unlocked during normal business hours.

(Added by Stats.1983, c. 267 §1.)

PARKING PRIVILEGES

CONTENTS

A. Division 3. Chapter 1. Article 8. Special Plates (§5007.)

B. Division 11. Chapter 2. Article 3. Offenses Relating To Traffic Devices (§21458.)

C. Division 11. Chapter 9. Stopping, Standing, and Parking
(Vehicle Code §22500, §22507, §22507.8, §22507.9, §22511, §22511.5, §22511.7, §22511.8, §22511.9, §22511.10, §22511.11, §22511.55, §22522.)

A. SPECIAL PLATES

Vehicle Code

§5007. Disabled person or disabled veterans; special identification license plates; return to department on death or expiration

(a) The department shall, upon application and without additional fees, issue a special identification license plate or plates to a disabled person or disabled veteran, pursuant to procedures adopted by the department.

(b) The special identification plates issued to a disabled person or disabled veteran shall run in a regular numerical series which shall include one or more unique two-letter codes reserved for disabled person license plates or disabled veteran license plates. The International Symbol of Access adopted pursuant to Section 3 of Public Law 100-641 commonly known as the "wheelchair symbol" shall be depicted on each plate.

(c) (1) Prior to issuing any disabled person or disabled veteran a special identification license plate, the department shall require the submission of a certificate, in accordance with paragraph (2), signed by the physician or surgeon substantiating the disability, unless the applicant's disability is readily observable and uncontested. The disability of any person who has lost, or has lost use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, may also be certified by a licensed chiropractor. The blindness of any applicant shall be certified by a licensed physician or surgeon who specializes in diseases of the eye or a licensed optometrist.

(2) The physician or other person who signs a certificate submitted under this subdivision shall retain information sufficient to substantiate that certificate and, upon request of the department, shall make that information available for inspection by the Medical Board of California.

(d) The special identification license plate shall, upon the death of the disabled person or disabled veteran, be returned to the department within 60 days or upon the expiration of the vehicle registration, whichever occurs first.

(Added by Stats.1991, c. 893 (A.B. 274), §2. Amended by Stats.1992, c. 785 (A.B. 2289), §2. Amended by Stats.2000, C. 524(A.B. 1792), §4)

B. OFFENSES RELATING TO TRAFFIC DEVICES

Vehicle Code

§21458. Curb markings

(a) Whenever local authorities enact local parking regulations and indicate them by the use of paint upon curbs, the following colors only shall be used, and the colors indicate as follows:

(1) Red indicates no stopping, standing, or parking, whether the vehicle is attended or unattended, except that a bus may stop in a red zone marked or signposted as a bus loading zone.

(2) Yellow indicates stopping only for the purpose of loading or unloading passengers or freight for the time as may be specified by local ordinance.

(3) White indicates stopping for either of the following purposes:

(A) Loading or unloading of passengers for the time as may be specified by local ordinance.

(B) Depositing mail in an adjacent mailbox.

(4) Green indicates time limit parking specified by local ordinance.

(5) Blue indicates parking limited exclusively to the vehicles of disabled persons and disabled veterans.

(b) Regulations adopted pursuant to subdivision (a) shall be effective on days and during hours or times as prescribed by local ordinances.

(Added by Stats.1959, c. 3 §21458. Amended by Stats.1975, c. 688, p.1636 §1; Stats.1985, c. 1041 §4; Stats.1992, c. 1243 (AB3090) §88 effective September 30, 1992.)

C. STOPPING, STANDING, AND PARKING

Vehicle Code

§22500. Prohibited stopping, standing, or parking

§22507. Local regulation

- §22507.8. Disabled persons' and veterans' parking spaces; unauthorized parking or obstructing; offstreet parking facilities
- §22507.9. Special enforcement units, handicapped parking enforcement; compensation and benefits; application of section

- §22511. Repealed by Stats.1985, c. 1041 §6.
- §22511.5. Disabled persons or disabled veterans; parking privileges
- §22511.55. Distinguishing placard; application; use, display, and appearance; procedures for issuance and renewal; fee; eligibility; certificate substantiating disability; temporary disability; return upon death of disabled person
- §22511.56. Presentation of identification and evidence of issuance; failure to present; rebuttable presumption of misuse; penalty; confiscation of placard
- §22511.7. Designation of parking for disabled persons and veterans
- §22511.8. Offstreet parking; designation of parking for disabled persons and veterans; removal of unauthorized vehicles
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- §22511.10. Disabled persons; Legislative findings
- §22511.11. Office of State Architect; regulations; location of disabled person parking stalls or spaces
- §22522. Parking near sidewalk access ramps (Effective July 1, 1995.)

§22500. Prohibited stopping, standing, or parking

No person shall stop, park, or leave standing any vehicle whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or official traffic control device, in any of the following places:

- (a) Within an intersection except adjacent to curbs as may be permitted by local ordinance.

- (b) On a crosswalk, except that a bus engaged as a common carrier or a taxicab may stop in an unmarked crosswalk to load or unload passengers when authorized by the legislative body of any city pursuant to an ordinance.

- (c) Between a safety zone and the adjacent right-hand curb or within the area between the zone and the curb as may be indicated by a sign or red paint on the curb, which sign or paint was erected or placed by local authorities pursuant to an ordinance.

- (d) Within 15 feet of the driveway entrance to any fire station. This subdivision does not

apply to any vehicle owned or operated by a fire department and clearly marked as a fire department vehicle.

(e) In front of a public or private driveway, except that a bus engaged as a common carrier, schoolbus, or a taxicab may stop to load or unload passengers when authorized by local authorities pursuant to an ordinance.

In unincorporated territory, where the entrance of a private road or driveway is not delineated by an opening in a curb or by other curb construction, so much of the surface of the ground as is paved, surfaced, or otherwise plainly marked by vehicle use as a private road or driveway entrance, shall constitute a driveway.

(f) On any portion of a sidewalk, or with the body of the vehicle extending over any portion of a sidewalk, except electric carts when authorized by local ordinance, as specified in Section 21114.5. Lights, mirrors, or devices that are required to be mounted upon a vehicle under this code may extend from the body of the vehicle over the sidewalk to a distance of not more than 10 inches.

(g) Alongside or opposite any street or highway excavation or obstruction when stopping, standing, or parking would obstruct traffic.

(h) On the roadway side of any vehicle stopped, parked, or standing at the curb or edge of a highway, except for a schoolbus when stopped to load or unload pupils in a business or residence district where the speed limit is 25 miles per hour or less.

(i) Except as provided under Section 22500.5, alongside curb space authorized for the loading and unloading of passengers of a bus engaged as a common carrier in local transportation when indicated by a sign or red paint on the curb erected or painted by local authorities pursuant to an ordinance.

(j) In a tube or tunnel, except vehicles of the authorities in charge, being used in the repair, maintenance, or inspection of the facility.

(k) Upon a bridge, except vehicles of the authorities in charge, being used in the repair, maintenance, or inspection of the facility, and except that buses engaged as a common carrier in local transportation may stop to load or unload passengers upon a bridge where sidewalks are provided, when authorized by local authorities pursuant to an ordinance, and except that local authorities pursuant to ordinance or the Department of Transportation pursuant to an order, within their respective jurisdictions, may permit parking on bridges having sidewalks and shoulders of sufficient width to permit parking without interfering with the normal movement of traffic on the roadway.

Local authorities by ordinance or resolution, may permit parking on these bridges on state highways in their respective jurisdictions if the ordinance or resolution is first approved in writing by the Department of Transportation. Parking shall not be permitted unless there are signs in place, as may be necessary, to indicate the provisions of local ordinances or the order of the Department of Transportation.

(l) In front of that portion of a curb that has been cut down, lowered, or constructed to provide wheelchair accessibility to the sidewalk and that is designated for wheelchair access by either a sign or red paint on the curb pursuant to an ordinance of the local authority.

(Stats.1959, c. 3, p. 1698, §22500. Amended by Stats.1963, c. 1661, p. 3252, §1; Stats.1965, c. 85, p. 1026, §1; Stats.1965, c. 295, p. 1293, §1; Stats.1965, c. 1092, p. 2736, §1; Stats.1972, c. 490, p. 862, §3; Stats.1974, c. 545, p. 1324, §203; Stats.1982, c. 822, p. 3125, §1; Stats.1984, c. 852, §1; Stats.1992, c. 624 (A.B. 3144), §6, eff. Sept. 14, 1992; Stats 198, c.877 (A.B. 2132), §66.)

§22507. Local regulation

(a) Local authorities may, by ordinance or resolution, prohibit or restrict the stopping, parking, or standing of vehicles, including, but not limited to, vehicles that are six feet or more in height (including any load thereon) within 100 feet of any intersection, on certain streets or highways, or portions thereof, during all or certain hours of the day. The ordinance or resolution may include a designation of certain streets upon which preferential parking privileges are given to residents and merchants adjacent to the streets for their use and the use of their guests, under which the residents and merchants may be issued a permit or permits that exempt them from the prohibition or restriction of the ordinance or resolution. With the exception of alleys, the ordinance or resolution shall not apply until signs or markings giving adequate notice thereof have been placed. A local ordinance or resolution adopted pursuant to this section may contain provisions that are reasonable and necessary to ensure the effectiveness of a preferential parking program.

(b) An ordinance or resolution adopted under this section may also authorize preferential parking permits for members of organizations, professions, or other designated groups to park on specified streets if the local authority determines that the use of the permits will not adversely affect parking conditions for residents and merchants in the area.

(Stats.1959, c. 3 §22507. Amended by Stats.1963, c. 1070 §1; Stats.1969, c. 541 §1; Stats.1976, c. 1002 §1; Stats.1980, c. 140 §1; Stats.1984, c. 181 §2; Stats.1985., c. 912 §2; Stats.1987, c. 455 §4; Stats 1997, c. 343 (S.B. 626), §2.)

§22507.8. Disabled persons' and veterans' parking spaces; unauthorized parking or

obstructing; offstreet parking facilities

(a) It is unlawful for any person to park or leave standing any vehicle in a stall or space designated for disabled persons and disabled veterans pursuant to Section 22511.7 or 22511.8, unless the vehicle displays either a special identification license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59.

(b) It is unlawful for any person to obstruct, block or otherwise bar access to those parking stalls or spaces except as provided in subdivision (a).

(c) It is unlawful for any person to park or leave standing any vehicle including a vehicle displaying a special identification license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59, in either of the following places.

(1) On the lines marking the boundaries of a parking stall or space designated for disabled persons or disabled veterans.

(2) In any area of the pavement adjacent to a parking stall or space designated for disabled persons or disabled veterans that is marked by crosshatched lines and is thereby designated, pursuant to any local ordinance, for the loading and unloading of vehicles parked in the stall or space.

(d) Subdivision (a), (b), and (c) apply to all offstreet parking facilities owned or operated by the state, and to all offstreet parking facilities owned or operated by a local authority. Subdivisions (a), (b), and (c) also apply to any privately owned and maintained offstreet parking facility.

(Added by Stats.1989, c. 338, §2, eff. Sept. 11, 1989, operative Jan. 1, 1991. Amended by Stats.1990, c. 303 (A.B.3849), §1; Stats.1994, c. 1149 (A.B.2878), §4; Stats 1997, c.945 (A.B.1561), §18.)

§22507.9. Special enforcement units; handicapped parking enforcement; compensation and benefits; application of section

Local authorities may establish a special enforcement unit for the sole purpose of providing adequate enforcement of Section 22507.8 and local ordinances and resolutions adopted pursuant to Section 22511.7.

Local authorities may establish recruitment and employment guidelines that encourage and enable employment of qualified disabled persons in these special enforcement units.

Members of the special enforcement unit may issue notices of parking violation for violations of Section 22507.8 and local ordinances adopted pursuant to Section 22511.7. Members of the special enforcement unit shall not be peace officers and shall not make arrests in the course

of their official duties , but shall wear distinctive uniforms and badges while on duty. A two-way radio unit, which may utilize police frequencies or citizens' band, may be issued by the local authority to each member of the special enforcement unit for use while on duty.

The local authority may pay the cost of uniforms and badges for the special enforcement unit, and may provide daily cleaning of the uniforms. Additionally, the local authority may provide motorized wheelchairs for use by members of the special unit while on duty, including batteries and necessary recharging thereof. Any motorized wheelchair used by a member of the special enforcement unit while on duty shall be equipped with a single headlamp in the front and a single stoplamp in the rear.

Members of the special enforcement unit may be paid an hourly wage without the compensatory benefits provided other permanent and temporary employees, but shall be entitled to applicable workers' compensation benefits as provided by law. Insurance provided by the local authority for disability or liability of a member of the special enforcement unit shall be the same as for other employees performing similar duties.

Nothing in this section precludes a local authority from using regular full-time employees to enforce this chapter and ordinances adopted pursuant thereto.

This section applies to all counties and cities, including every charter city and city and county.

(Added by Stats.1984, c. 1095, §1; Amended by Stats 1996, c.124 (A.B. 3470), §127.)

§22511. Repealed by Stats 1985 ch 1041 §6.

§22511.5. Disabled persons or disabled veterans; parking privileges

(a) (1) Any disabled person or disabled veteran displaying special identification license plates issued under Section 5007 or a distinguishing placard issued under Section 22511.55 or 22511.59 shall be allowed to park for unlimited periods in any of the following zones:

(A) In any restricted zone described in paragraph (5) of subdivision (a) of Section 21458 or on streets upon which preferential parking privileges and height limits have been given pursuant to Section 22507.

(B) In any parking zone that is restricted as to the length of time parking is permitted as indicated by a sign erected pursuant to a local ordinance.

(2) Any disabled person or disabled veteran shall be allowed to park in any metered parking space without being required to pay any parking meter fees.

(3) This subdivision does not apply to any zone for which state law or ordinance absolutely prohibits stopping, parking, or standing of all vehicles, or which the law or ordinance reserves for special types of vehicles, or to the parking of any vehicle that is involved in the operation of a street vending business.

(b) Any disabled person or disabled veteran shall be allowed to park a vehicle displaying a special identification disabled person license plate or placard issued by a foreign jurisdiction with the same parking privileges authorized in this code for any vehicle displaying a special identification license plate or a distinguishing placard issued by the Department of Motor Vehicles.

(Added by Stats.1978, c. 457 §2. Amended by Stats.1980, c. 261 §1; Stats.1982, c. 974 §2; Stats.1982, c. 975 §6.5; Stats.1984, c. 510 §1; Stats.1984, c. 1118 §1; Stats.1985, c. 1041 §7; Stats.1986, c. 351 §3; Stats.1988, c. 115 §1; Stats.1989, c. 554 §3; Stats.1991, c. 893 (A.B. 274) §4; Stats.1992, c. 785 (A.B. 2289) §3; Stats.1992, c. 1241 (S.B.1615) §21; Stats.1994, c. 1149 (A.B.2878), §5.)

§22511.55. Distinguishing placard; application; use, display, and appearance; procedures for issuance and renewal; fee; eligibility; certificate substantiating disability; temporary disability; return upon death of disabled person

(a) (1) Any disabled person or disabled veteran may apply to the department for the issuance of a distinguishing placard. The placard may be used in lieu of the special identification license plate or plates issued under Section 5007 for parking purposes described in Section 22511.5 when suspended from the rear view mirror or, if there is no rear view mirror, when displayed on the dashboard of a vehicle. It is the intent of the Legislature to encourage the use of these distinguishing placards because they provide law enforcement officers with a more readily recognizable symbol for distinguishing vehicles qualified for the parking privilege. The placard shall be the size and color determined by the department, shall bear the International Symbol of Access adopted pursuant to Section 3 of Public Law 100-641, commonly known as the "wheelchair symbol." The department shall incorporate instructions for the lawful use of a placard, and a summary of the penalties for the unlawful use of a placard, into the identification card issued to the placard owner.

(2) (A) The department may establish procedures for the issuance and renewal of the placards. The placards shall have a fixed expiration date of June 30 every two years. Whenever any application for a placard is submitted to the department on or after January 1 of the year of expiration, the fee shall be for the current and subsequent renewal period.

(B) As used in this section, "year" means the period between the inclusive dates of July 1 through June 30.

(C) Prior to the end of each year, the department shall, for the most current three years available, compare its record of disability placards issued against the records of the Bureau of Vital Statistics of the State Department of Health Services, or its successor, and withhold any renewal notices that otherwise would have been sent, for any placard holders identified as deceased.

(3) The fee for an original application or renewal application is six dollars (\$6).

(4) Except as provided in paragraph (5), no person is eligible for more than one placard at any time.

(5) Organizations and agencies involved in the transportation of disabled persons or disabled veterans may apply for a placard for each vehicle used for the purpose of transporting disabled persons or disabled veterans.

(b)(1) Prior to issuing any disabled person or disabled veteran an original distinguishing placard, the department shall require the submission of a certificate, in accordance with a paragraph (2), signed by the physician or surgeon substantiating the disability, unless the applicant's disability is readily observable and uncontested. The disability of any person who has lost, or has lost use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, may also be certified by a licensed chiropractor. The blindness of any applicant shall be certified by a licensed physician or surgeon who specializes in diseases of the eye or licensed optometrist. The physician or person certifying the qualifying disability shall provide a full description of the illness or disability on the form submitted to the department..

(2) The physician or other person who signs a certificate submitted under this subdivision shall retain information sufficient to substantiate that certificate and, upon request of the department, shall make that information available for inspection by the Medical Board of California.

(3) The department shall maintain in its records all information on an applicant's certification of permanent disability and shall make that information available to eligible law enforcement or parking control agencies upon a request pursuant to Section 22511.58.

(c) (1) Any person who has been issued a distinguishing placard pursuant to subdivision (a) may apply to the department for a substitute placard without recertification of eligibility, if that placard has been lost or stolen.

(2) The fee for a substitute placard issued pursuant to paragraph (1) is six dollars (\$6).

(d) The distinguishing placard shall be returned to the department not later than 60 days after the death of the disabled person or disabled veteran to whom the placard was issued.

(Added by Stats.1991, c. 893 (A.B. 274) §5. Amended by Stats.1991, c. 894 (S.B. 234), §3; Stats.1993, c. 1292 (S.B. 274) §13; Stats.1994, c. 1149 (A.B.2878), §6. Amended by Stats.2000, c. 524 (A.B. 1792), §5.))

§22511.56. Presentation of identification and evidence of issuance; failure to present; rebuttable presumption of misuse; penalty; confiscation of placard.

(a) Any person using a distinguishing placard issued pursuant to Section 22511.55 or 22511.59 for parking as permitted by Section 22511.5 shall, upon request of any peace officer or person authorized to enforce parking laws, ordinances, or regulations, present identification and evidence of the issuance of that placard to that person.

(b) Failure to present the requested identification and evidence of the issuance of that placard shall be a rebuttable presumption that the placard is being misused and that the associated vehicle has been parked in violation of the provisions of Section 22507.8.

(c) In addition to any other applicable penalty for the misuse of a placard, the officer or parking enforcement person may confiscate a placard being used for parking purposes that benefit any person other than the person to whom the placard was issued by the Department of Motor Vehicles. A placard lawfully used by a person transporting a disabled person pursuant to subdivision (b) of Section 4461 shall not be confiscated.

(Added by Stats.1991, c.894 (S.B.234), §4. Amended by Stats.1994, c. 1149, c. 1149 (A.B.2878), §7.)

§22511.57. Disabled person placards lost or stolen; owner of placard deceased; vehicle parking restrictions and prohibitions.

Local authorities may, by ordinance or resolution, prohibit or restrict the parking or standing of a vehicle on streets or highways or from a disabled person's parking stall or space of a privately or publicly owned or operated offstreet parking facility within their jurisdiction when the vehicle displays, in order to obtain special parking privileges, a disabled placard issued pursuant to Section 22511.55, and the Department of Motor Vehicles record for the identification number assigned to the placard indicates that the card has been reported as lost or stolen, or was issued to a person who has been reported as being deceased for a period exceeding 60 days.

(Added by Stats.1994, c.221 (S.B.1378), §1, operative July 1, 1995.)

§22511.58. Physician's certificate information; release to specified local agencies; local review board

(a) Upon a request to the department by a local public law enforcement agency or local agency responsible for the administration or enforcement of parking regulations, the department shall make available to the requesting agency any information contained in a physician's certificate submitted to the department as part of the application for a disabled person's parking privileges, substantiating the disability of a person applying for or who has been issued a parking placard pursuant to Section 22511.55. The department shall not provide the information specified in this subdivision to any private or other third-party parking citation processing agency.

(b) Local authorities may establish a review board or panel, which shall include a qualified physician or medical authority, for purposes of reviewing information contained in the applications for special parking privileges and the certification of qualifying disabilities for persons residing within the jurisdiction of the local authority. Any findings or determinations by a review board or panel under this section indicating that an application or certification is fraudulent or lacks proper certification may be transmitted to the department or other appropriate authorities for further review and investigation.

(Added by Stats.1996, c. 1033 (S.B.1498), §2.)

§22511.59. Temporary distinguishing placard

(a) Upon receipt of the applications and documents required by subdivisions (b), (c), or (d), the department shall issue a temporary distinguishing placard bearing the International Symbol of Access adopted pursuant to Section 3 of Public Law 100-641 commonly known as the "wheelchair symbol." During the period for which it is valid, the temporary distinguishing placard may be used for the parking purposes described in Section 22511.5 in the same manner as a distinguishing placard issued pursuant to Section 22511.55.

(b) (1) Any person who is temporarily disabled for a period of not more than six months may apply to the department for the issuance of the temporary distinguishing placard described in subdivision (a).

(2) Prior to issuing a placard pursuant to this subdivision, the department shall require the submission of a certificate signed by a physician or surgeon, as described in subdivision (b) of Section 22511.55, substantiating the temporary disability and stating the date upon which the disability is expected to terminate.

(3) The physician or other person who signs a certificate submitted under this subdivision shall maintain information sufficient to substantiate that certificate and, upon request of the department, shall make that information available for inspection by the Medical Board of California.

(4) A placard issued pursuant to this subdivision shall expire not later than 180 days from the date of issuance or upon the expected termination date of the disability, as stated on the certificate required by paragraph (2) whichever is less.

(c)(1) Any disabled person or disabled veteran who is not a resident of this state and plans to travel within the state may apply to the department for the issuance of the temporary distinguishing placard described in subdivision (a).

(2) Prior to issuing a placard pursuant to this subdivision, the department shall require certification of the disability, as described in subdivision (b) of Section 22511.55.

(3) The physician or other person who signs a certificate submitted under this subdivision shall maintain information sufficient to substantiate that certificate and, upon request of the department, shall make that information available for inspection by the Medical Board of California.

(4) A placard issued pursuant to this subdivision shall expire not later than 90 days from the date of issuance.

(d) (1) Any disabled person or disabled veteran who has been issued either a distinguishing placard pursuant to Section 22511.55 or special identification license plates pursuant to Section 5007, but not both, may apply to the department for the issuance of the temporary distinguishing placard for the purpose of travel described in subdivision(a).

(2) Prior to issuing a placard pursuant to this subdivision, the department shall require the applicant to submit either the number identifying the distinguishing placard issued pursuant to Section 22511.55 or the number on the special identification license plates.

(3) A placard issued pursuant to this subdivision shall expire not later than 30 days from the date of issuance.

(e) The fee for a placard issued pursuant to this section is six dollars (\$6).

(Added by Stats.1994, c. 1149 (A.B. 2878), §8. Amended by Stats.2000, c. 524 (A.B.1792), §6.)

§22511.6. Cancellation or revocation of distinguishing placards

(a) The Department of Motor Vehicles may cancel or revoke a distinguishing placard issued pursuant

to Section 22511.55 or 22511.59 in any of the following events:

(1) When the department is satisfied that the placard was fraudulently obtained or erroneously issued.

(2) When the department determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand.

(3) When the placard could have been refused when last issued or renewed.

(4) When the department determines that the owner of the placard has committed any offense described in Section 4461 or 4463, involving the placard to be canceled or revoked.

(5) When the department determines that the owner of the placard is deceased.

(b) Whenever the Department of Motor Vehicles cancels or revokes a distinguishing placard, the owner or person in possession of the placard shall immediately return the placard to the department.

(Amended by Stats.1993, c.1292 (S.B.274), §14; Stats.1994, c.1149 (A.B.2878), §9.)

§22511.7. Designation of parking for disabled persons and veterans

In addition to Section 22511.8 for offstreet parking, a local authority may, by ordinance or resolution, designate parking spaces for the exclusive use of any vehicle which displays either a special identification license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59. Whenever a local authority so designates a parking space, it shall be indicated by blue paint on the curb or edge of the paved portion of the street adjacent to the space. In addition to blue paint, the space may also be indicated by signs or other suitable means. In areas where snow or ice may obscure the blue paint, a clearly visible sign appropriately designating the space is sufficient for purposes of this section.

This section does not restrict the privilege granted to disabled persons and disabled veterans by Section 22511.5.

(Added by Stats.1975, c. 688 §2. Amended by Stats.1976, c. 1096 §4; Stats.1983, c. 270 §2, effective July 15, 1983; Stats.1985, c. 1041, §8; Stats.1987, c. 314, §2; Stats.1989, c. 554, §4; Stats.1990, c. 692(A.B.3398), §4; Stats.1994, c. 1149 (A.B.2878), §10.)

§22511.8. Offstreet parking; designation of parking for disabled persons and veterans; removal of unauthorized vehicles

(a) Any local authority, by ordinance or resolution, and any person in lawful possession of an offstreet parking facility may designate stalls or spaces in an offstreet parking facility owned or operated by the local authority or person for the exclusive use of any vehicle which displays either a special identification license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59. The designation shall be made by posting a sign as described in paragraph (1), and by either of the markings described in paragraph (2) or (3):

(1) By posting immediately adjacent to, and visible from, each stall or space, a sign consisting of a profile view of a wheelchair with occupant in white on a blue background.

(2) By outlining or painting the stall or space in blue and outlining on the ground in the stall or space in white or suitable contrasting color a profile view depicting a wheelchair with occupant.

(3) By outlining a profile view of a wheelchair with occupant in white on a blue background, of the same dimensions as in paragraph (2). The profile view shall be located so that it is visible to a traffic enforcement officer when a vehicle is properly parked in the space.

(b) If posted in accordance with subdivision (d) or (e), the owner or person in lawful possession of a privately owned or operated offstreet parking facility, after notifying the police or sheriff's department, may cause the removal of a vehicle from a stall or space designated pursuant to subdivision (a) in the facility to the nearest public garage unless a special identification license plate issued pursuant to Section 5007 or distinguishing placard issued pursuant to Section 22511.55 or 22511.59 is displayed on the vehicle.

(c) If posted in accordance with subdivision (d), the local authority owning or operating an offstreet parking facility, after notifying the police or sheriff's department, may cause the removal of a vehicle from a stall or space designated pursuant to subdivision (a) in the facility to the nearest public garage unless a special identification license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59 is displayed on the vehicle.

(d) Except as provided in Section 22511.9, the posting required for an offstreet parking facility owned or operated either privately or by a local authority shall consist of a sign not less than 17 by 22 inches in size with lettering not less than one inch in height which clearly and conspicuously states the following: "Unauthorized vehicles not displaying distinguishing placards or license plates issued for physically handicapped persons will be towed away at owner's expense. Towed vehicles may be reclaimed at

_____ or by telephoning
(Address) _____."
(Telephone number of local law enforcement agency)

The sign shall be posted in either of the following locations:

(1) Immediately adjacent to, and visible from, the stall or space.

(2) In a conspicuous place at each entrance to the offstreet parking facility.

(e) If the parking facility is privately owned and public parking is prohibited by the posting of a sign meeting the requirements of paragraph (1) of subdivision (a) of Section 22658, the requirements of subdivision (b) may be met by the posting of a sign immediately adjacent to, and visible from, each stall or space indicating that a vehicle not meeting the requirements of subdivision (a) will be removed at the owner's expense and containing the telephone number of the local traffic law enforcement agency.

(f) This section does not restrict the privilege granted to disabled persons and disabled veterans by Section 22511.5.

(Added by Stats.1975, c. 688 §3. Amended by Stats.1976, c. 1096 §5; Stats.1982, c. 975 §7; Stats.1983, c. 270 §3, effective July 15, 1983; Stats.1985, c. 312, §1; Stats.1985, c. 1041 §9; Stats.1987, c. 314, §3; Stats.1989, c. 554, §5; Stats.1990, c. 216 (S.B.2510), §118; Stats.1991, c. 928 (A.B.1886), §27, eff. Oct. 14, 1991; Stats.1994, c. 1149 (A.B.2878), §11.)

§22511.85. Public offstreet parking facilities; loading and unloading disabled persons; sufficient space

Any vehicle equipped with a side-loading lift or ramp that is used for the loading and unloading of disabled persons may park in not more than two adjacent stalls or spaces in any public off-street parking facility when loading or unloading disabled persons, if there is no single parking space immediately available within that facility that is suitable for that purpose including, but not limited to, when there is not sufficient space to operate a vehicle lift or ramp or there is not sufficient room for a disabled person to exit the vehicle or maneuver once outside the vehicle.

(Added by Stats.2000, c. 215 (A.B.1276), § 3.)

§22511.9. Replacement signs relating to parking privileges for disabled persons; contents

Every new or replacement sign installed on or after January 1, 1992, relating to parking

privileges for disabled persons shall refer to "disabled persons" rather than "physically handicapped persons" or any other similar term, whenever such a reference is required on a sign.

(Added by Stats.1991, c. 928 (A.B.1886), §28, eff. Oct. 14, 1991.)

§22511.10. Disabled persons; Legislative findings

The Legislature hereby finds and declares all of the following:

(a) Two and one-half million Californians suffer from some form of chronic obstructive pulmonary disease. These persons who are not in wheelchairs have difficulty walking long distances.

(b) Encouraging those with physical disabilities to engage in activities outside of the home promotes better health and self-esteem, thereby lowering health costs.

(c) Placing disabled person parking spaces closest to the main entrances of buildings does not cost taxpayers, but provides accessibility to the physically disabled.

(d) It is the intent of the Legislature, in enacting Section 22511.11, to direct the Office of the State Architect to propose regulations that require disabled person parking spaces to be located on the shortest accessible route of travel to an accessible entrance or exit of a building or parking facility.

(Added by Stats.1992, c. 1187 (S.B.2043), §1.)

§22511.11. Office of State Architect; regulations; location of disabled person parking stalls or spaces

(a) The Office of the State Architect shall propose regulations specifying the location of disabled person parking stalls or spaces designated pursuant to Section 22511.8, for parking facilities constructed or reconstructed pursuant to a building permit issued on or after October 1, 1993. In specifying the placement of these stalls or spaces near buildings or facilities and within parking structures, consideration shall be given to the special access needs of disabled persons.

(b) The Office of the State Architect shall submit the regulations proposed pursuant to subdivision (a) to the State Building Standards Commission on or before July 1, 1993, for approval, adoption, and publication in Title 24 of the California Code of Regulations.

(Added by Stats.1992, c. 1187 (S.B.2043), §2.)

§22522. Parking near sidewalk access ramps

Text of section operative July 1, 1995

No person shall park a vehicle within three feet of any sidewalk access ramp constructed at, or adjacent to, a crosswalk or at any other location on a sidewalk so as to be accessible to and usable by the physically disabled, if the area adjoining the ramp is designated by either a sign or red paint.

(Added by Stats.1974, c. 760, p. 1675, §1. Amended by Stats.1994, c. 221 (S.B.1378), §2, operative July 1, 1995; Stats. 1999, c.1007(S.B. 532), §22.)

CIVIL RIGHTS AND NON-DISCRIMINATION

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A. PART 2.5: Blind and Other Physically Disabled Persons (Civil Code 51-55.1, 1360 - 1361) (Evidence Code 754, 754.5)

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C. Discrimination by Licensed Professionals (Business and Professions Code 125.6) (Insurance Code 10144-10145)

A. BLIND AND OTHER PHYSICALLY DISABLED PERSONS

Civil Code

- §51. Unruh Civil Rights Act; equal rights; business establishments; violation
- §51.5 Discrimination, boycott, blacklist, etc.; business establishments; equal rights
- §51.7. Freedom from violence or intimidation
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- resort, and housing accommodations
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§51. Unruh Civil Rights Act; equal rights; business establishments; violation

- (a). This section shall be known, and may be cited, as the Unruh Civil Rights Act.
- (b) All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, or medical condition are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.
- (c) This section shall not be construed to confer any right or privilege on a person that is conditioned or limited by law or that is applicable alike to persons of every sex, color, race, religion, ancestry, national origin, disability, or medical condition.
- (d) Nothing in this section shall be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever, beyond that construction, alteration, repair, or modification that is otherwise required by other provision so f law, to any new or existing establishment, facility, building, improvement, or any other structure, nor shall anything in this section be construed to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other laws.
- (e) For purposes of this section:
 - (1) "Disability" means any mental or physical disability as defined in Section 12926 of the Government Code.
 - (2) "Medical condition" has the same meaning as defined in subdivision (h) of Section 12926 of the Government Code.
- (f) A violation of the right of any individual under the Americans with Disabilities Act of 1990

(Public Law 101-336) shall also constitute a violation of this section.

(Added by Stats.1905, c. 413 §1. Amended by Stats.1919, c. 210 §1; Stats.1923, c. 235 §1; Stats.1959, c. 1866 §1; Stats.1961, c. 1187 §1; Stats.1974, c. 1193 §1; Stats.1987, c. 159 §1; Stats.1992, c. 913 (A.B. 1077) §3; Stats 1998, c. 195 (A.B. 2702), §1; Stats.2000, c. 1049 (A.B.2222), § 2.)

§51.5. Discrimination, boycott, blacklist, etc.; business establishments; equal rights

(a) No business establishment of any kind whatsoever shall discriminate against, boycott or blacklist, or refuse to buy from, contract with, sell to, or trade with any person in this state because of the race, creed, religion, color, national origin, sex, disability or medical condition of the person or of the person's partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers, because the person is perceived to have one or more of those characteristics, or because the person is associated with a person who has, or is perceived to have, any of those characteristics.

(b) As used in this section "person" includes any person, firm, association, organization, partnership, business trust, corporation, limited liability company, or company.

(c) This section shall not be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever, beyond that construction, alteration, repair, or modification that is otherwise required by other provisions of law, to any new or existing establishment, facility, building, improvement, or any other structure, nor shall this section be construed to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other laws.

(d) For purposes of this section:

(1) "Disability" means any mental or physical disability as defined in Section 12926 of the Government Code.

(2) Medical condition" has the same meaning as defined in subdivision (h) of Section 12926 of the Government Code.

(Added by Stats.1976, c. 366 §1. Amended by Stats.1987, c. 159 §2; Stats.1992, c. 913 (A.B. 1077) §3.2; Stats.1994, c. 1010 (S.B.2053), §28; Stats 1998, c.195(A.B. 2702), §2; Stats 1999, c.591(A.B. 1670), §2. Stats.2000, c.1049 (A.B.2222),§3.)

§51.7. Freedom from violence or intimidation

(a) All persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, or position in a labor dispute, or because another person perceives them to have one or more of those characteristics. The identification in this subdivision of particular bases of discrimination is illustrative rather than restrictive.

This section does not apply to statements concerning positions in a labor dispute which are made during otherwise lawful labor picketing.

(b) As used in this section, "sexual orientation" means heterosexuality, homosexuality, or bisexuality.

(Added by Stats.1976, c. 1293 §2. Amended by Stats.1984, c. 1437 §1; Stats.1985, c. 497 §1; Stats.1987, c. 1277 §2; Stats.1994, c. 407 (S.B.1595), §1.)

§51.8. Discrimination; franchises

No franchisor shall discriminate in the granting of franchises solely because of the race, color, religion, sex, national origin, or disability of the franchisee and the racial, ethnic, religious, national origin, or disability composition of a neighborhood or geographic area in which the franchise is located. Nothing in this section shall be interpreted to prohibit a franchisor from granting a franchise to prospective franchisees as part of a program or programs to make franchises available to persons lacking the capital, training, business experience, or other qualifications ordinarily required of franchisees, or any other affirmative action program adopted by the franchisor.

Nothing in this section shall be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever beyond that construction, alteration, repair, or modification that is otherwise required by other provisions of law, to any new or existing establishment, facility, building, improvement, or any other structure, nor shall anything in this section be construed to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other laws.

(Added by Stats.1980, c. 1303 §1. Amended by Stats.1987, c. 159 §3; Stats.1992, c. 913 (A.B. 1077) §3.4; Stats 1998, c.195 (A.B. 2702), §3.)

§52. Denial of civil rights or discrimination; damages; civil action by people or person aggrieved; intervention; unlawful practice complaint

(a) Whoever denies, aids or incites a denial, or makes any discrimination or distinction contrary to Section 51 or 51.5, is liable for each and every offense for the actual damages, and any amount that may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than one thousand dollars (\$1,000), and any attorney's fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51 or 51.5.

(b) Whoever denies the right provided by Section 51.7 or 51.9, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, the following:

(1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

(2) A civil penalty of twenty-five thousand dollars (\$25,000) to be awarded to the person denied the right provided by Section 51.7 in any action brought by the person denied the right, or by the Attorney General, a district attorney, or a city attorney.

(3) Attorney fees as may be determined by the court.

(c) Whenever there is reasonable cause to believe that any person or group of persons is engaged in conduct of resistance to the full enjoyment of any of the rights described in this section, and that conduct is of that nature and is intended to deny the full exercise of those rights, the Attorney General, any district attorney or city attorney, or any person aggrieved by the conduct may bring a civil action in the appropriate court by filing with it a complaint. The complaint shall contain the following:

(1) The signature of the officer, or, in his or her absence, the individual acting on behalf of the officer, or the signature of the person aggrieved.

(2) The facts pertaining to the conduct.

(3) A request for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this section.

(d) Whenever an action has been commenced in any court seeking relief from the denial of equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States on

account of race, color, religion, sex, national origin, or disability, the Attorney General or any district attorney or city attorney for or in the name of the people of the State of California may intervene in the action upon timely application if the Attorney General or any district attorney or city attorney certifies that the case is of general public importance. In that action the people of the State of California shall be entitled to the same relief as if it had instituted the action.

(e) Actions brought pursuant to this section are independent of any other actions, remedies, or procedures that may be available to an aggrieved party pursuant to any other law.

(f) Any person claiming to be aggrieved by an alleged unlawful practice in violation of Section 51 or 51.7 may also file a verified complaint with the Department of Fair Employment and Housing pursuant to Section 12948 of the Government Code.

(g) This section does not require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever, beyond that construction, alteration, repair, or modification that is otherwise required by other provisions of law, to any new or existing establishment, facility, building, improvement, or any other structure, nor does this section augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other laws.

(h) For the purposes of this section, "actual damages" means special and general damages. This subdivision is declaratory of existing law.

Added by Stats.1905, c. 413 §2. Amended by Stats.1919, c. 210 §2; Stats.1923, c. 235 §2; Stats.1959, c. 1866 §2; Stats.1974, c. 1193 §2; Stats.1976, c. 366 §2; Stats.1976, c. 1293 §2.5; Stats.1978, c. 1212 §1; Stats.1981, c. 521 §1, effective September 16, 1981; Stats.1986, c. 244 §1; Stats.1987, c. 159 §4; Stats.1989, c. 459 §1; Stats.1991, c. 607 (S.B. 98) §2; Stats.1991, c. 839 (A.B. 1169) §2; Stats.1992, c. 913 (A.B. 1077) §3.6; Stats.1994, c. 535 (S.B.1288), §1; Stats 1998, c.195 (A.B. 2702), §4; Stats 1999, c. 964 (A.B. 519), §2. Stats.2000, c. 98 (A.B.2719), § 2.)

§52.1. Civil actions for protection of rights; damages, injunctive and other equitable relief; violations of orders

(a) If a person or persons, whether or not acting under color of law, interferes by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the peaceable exercise or enjoyment of the right or rights secured.

(b) Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (a), may institute and prosecute in his or her own name and on his or her own behalf a civil action for damages, including, but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured.

(c) An action brought pursuant to subdivision (a) or (b) may be filed either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in which a person whose conduct complained of resides or has his or her place of business. An action brought by the Attorney General pursuant to subdivision (a) also may be filed in the superior court for any county wherein the Attorney General has an office, and in such a case, the jurisdiction of the court shall extend throughout the state.

(d) If a court issues a temporary restraining order or a preliminary or permanent injunction in an action brought pursuant to subdivision (a) or (b), ordering a defendant to refrain from conduct or activities, the order issued shall include the following statement: VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE UNDER SECTION 422.9 OF THE PENAL CODE.

(e) The court shall order the plaintiff or the attorney for the plaintiff to deliver, or the county clerk to mail, two copies of any order, extension, modification, or termination thereof granted pursuant to this section, by the close of the business day on which the order, extension, modification, or termination was granted, to each local law enforcement agency having jurisdiction over the residence of the plaintiff and any other locations where the court determines that acts of violence against the plaintiff are likely to occur. Those local law enforcement agencies shall be designated by the plaintiff or the attorney for the plaintiff. Each appropriate law enforcement agency receiving any order, extension, or modification of any order issued pursuant to this section shall serve forthwith one copy thereof upon the defendant. Each appropriate law enforcement agency shall provide to any law enforcement officer responding to the scene of reported violence, information as to the existence of, terms, and current status of, any other issued pursuant to this section.

(f) A court shall not have jurisdiction to issue an order or injunction under this section, if that order or injunction would be prohibited under Section 527.3 of the Code of Civil Procedure.

(g) An action brought pursuant to this section is independent of any other action, remedy, or procedures that may be available to an aggrieved individual under any other provision of law, including, but not limited to, an action, remedy, or procedure brought pursuant to Section 51.7..

(h) In addition to any damages, injunction, or other equitable relief awarded in an action brought pursuant to subdivision (b), the court may award the petitioner or plaintiff reasonable attorney's fees.

(i) A violation of an order described in subdivision (d) may be punished either by prosecution under Section 422.9 of the Penal Code, or by a proceeding for contempt brought pursuant to Title 5 (commencing with Section 1209) of Part 3 of the Code of Civil Procedure. However, in any such proceeding pursuant to the Code of Civil Procedure, if it be determined that the person proceeded against is guilty of the contempt charged, in addition to any other relief, a fine may be imposed not exceeding one thousand dollars (\$1,000), or the person may be ordered imprisoned in a county jail not exceeding six months, or the court may order both the imprisonment and fine.

(j) Speech alone is not sufficient to support an action brought pursuant to subdivision (a) or (b), except upon a showing that the speech itself threatens violence against a specific person or group of persons; and the person or group of persons against whom the threat is directed reasonably fears that, because of the speech, violence will be committed against them or their property and that person threatening violence had the apparent ability to carry out the threat.

(k) No order issued in any proceeding brought pursuant to subdivision (a) or (b) shall restrict the content of any person's speech. An order restricting the time, place, or manner of any person's speech shall do so only to the extent reasonably necessary to protect the peaceable exercise or enjoyment of constitutional or statutory rights, consistent with the constitutional rights of the person sought to be enjoined..

(Added by Stats.1987, c. 1277, §3. Amended by Stats.1990, c. 392 (A.B.2683), §1; Stats.1991, c. 607 (S.B.98), §3; Stats.2000, c. 98 (A.B.2719), § 3.)

§53. Restrictions upon transfer or use of realty because of sex, race, color, religion, ancestry, national origin, or disability

(a) Every provision in a written instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, leasing, or mortgaging of that real property to any person of a specified sex, race, color, religion, ancestry, national origin, or disability, is void and every restriction or prohibition as to the use or occupation of real property because of the user's or occupier's sex, race, color, religion, ancestry, national origin, or disability is void.

(b) Every restriction or prohibition, whether by way of covenant, condition upon use or occupation, or upon transfer of title to real property, which restriction or prohibition directly or indirectly limits the acquisition, use or occupation of that property because of the acquirer's, user's, or occupier's sex, race, color, religion, ancestry,, national origin, or disability is void.

(c) In any action to declare that a restriction or prohibition specified in subdivision (a) or (b) is void, the court shall take judicial notice of the recorded instrument or instruments containing the prohibitions or restrictions in the same manner that it takes judicial notice of the matters listed in Section 452 of the Evidence Code.

(Added by Stats.1961, c. 1877 §1. Amended by Stats.1965, c. 299 §6, operative January 1, 1967; Stats.1974, c. 1193 §3; Stats.1987, c. 159 §5; Stats.1992, c. 913 (A.B. 1077) §3.8.)

§54. Right to streets, highways, and other public places; disability

(a) Individuals with disabilities or medical conditions have the same right as the general public to the full and free use of the streets, highways, sidewalks, walkways, public buildings, medical facilities, including hospitals, clinics, and physicians' offices, public facilities, and other public places.

(b) For purposes of this section:

(1) "Disability" means any mental or physical disability as defined in Section 12926 of the Government Code.

(2) "Medical condition" has the same meaning as defined in subdivision (h) of Section 12926 of the Government Code.

(c) A violation of the right of an individual under the Americans with Disabilities Act of 1990 (Public Law 101-336) also constitutes a violation of this section.

(Added by Stats.1968, c. 461 §1. Amended Stats.1992, c. 913 (A.B. 1077) §4; Stats.1994, c. 1257 (S.B.1240) §1; Stats 1996, c.498(S.B. 1687), §1. Stats.2000, c. 1049 (A.B.2222), §4.)

Civil Code §54.1. Access to public conveyances, places of public accommodation, amusement or resort, and housing accommodations

(a) (1) Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, medical facilities, including hospitals, clinics, and physicians' offices, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise provided), telephone facilities, adoption agencies, private schools, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

(2) As used in this section, "telephone facilities" means tariff items and other equipment and services that have been approved by the Public Utilities Commission to be used by individuals with disabilities in a manner feasible and compatible with the existing telephone network provided by the

telephone companies.

(3) "Full and equal access," for purposes of this section is its application to transportation, means access that meets the standards of Titles II and III of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted pursuant thereto, except that, if the laws of this state prescribe higher standards, it shall mean access that meets those higher standards.

(b) (1) Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

(2) "Housing accommodations" means any real property, or portion thereof, that is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more human beings, but shall not include any accommodations included within subdivision (a) or any single-family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.

(3) (A) Any person renting, leasing, or otherwise providing real property for compensation shall not refuse to permit an individual with a disability, at that person's expense, to make reasonable modifications of the existing rented premises if the modifications are necessary to afford the person full enjoyment of the premises. However, any modifications under this paragraph may be conditioned on the disabled tenant entering into an agreement to restore the interior of the premises to the condition existing prior to the modifications. No additional security may be required on account of an election to make modifications to the rented premises under this paragraph, but the lessor and tenant may negotiate, as part of the agreement to restore the premises, a provision requiring the disabled tenant to pay an amount into an escrow account, not to exceed a reasonable estimate of the cost of restoring the premises.

(B) Any person renting, leasing, or otherwise providing real property for compensation shall not refuse to make reasonable accommodations in rules, policies, practices, or services, when those accommodations may be necessary to afford individuals with a disability equal opportunity to use and enjoy the premises.

(4) Nothing in this subdivision shall require any person renting, leasing, or providing for compensation real property to modify his or her property in any way or provide a higher degree of care for an individual with a disability than for an individual who is not disabled.

(5) Except as provided in paragraph (6), nothing in this part shall require any person renting,

leasing, or providing for compensation real property, if that person refuses to accept tenants who have dogs, to accept as a tenant an individual with a disability who has a dog.

(6) (A) It shall be deemed a denial of equal access to housing accommodations within the meaning of this subdivision for any person, firm, or corporation to refuse to lease or rent housing accommodations to an individual who is blind or visually impaired on the basis that the individual uses the services of a guide dog, an individual who is deaf or hearing impaired on the basis that the individual uses the services of a signal dog, or to an individual with any other disability on the basis that the individual uses the services of a service dog, or to refuse to permit such an individual who is blind or visually impaired to keep a guide dog, an individual who is deaf or hearing impaired to keep a signal dog, or an individual with any other disability to keep a service dog on the premises.

(B) Except in the normal performance of duty as a mobility or signal aid, nothing contained in this paragraph shall be construed to prevent the owner of a housing accommodation from establishing terms in a lease or rental agreement that reasonably regulate the presence of guide dogs, signal dogs, or service dogs on the premises of a housing accommodation, nor shall this paragraph be construed to relieve a tenant from any liability otherwise imposed by law for real and personal property damages caused by such a dog when proof of the same exists.

(C) (i) As used in this subdivision, "guide dog" means any guide dog that was trained by a person licensed under the provisions of Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code or as defined in the regulations implementing Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336).

(ii) As used in this subdivision, "signal dog" means any dog trained to alert an individual who is deaf or hearing impaired to intruders or sounds.

(iii) As used in this subdivision, "service dog" means any dog individually trained to the requirements of the individual with a disability, including, but not limited to, minimal protection work, rescue work, pulling a wheelchair, or fetching dropped items.

(7) It shall be deemed a denial of equal access to housing accommodations within the meaning of this subdivision for any person, firm, or corporation to refuse to lease or rent housing accommodations to an individual who is blind or visually impaired, an individual who is deaf or hearing impaired, or other individual with a disability on the basis that the individual with a disability is partially or wholly dependent upon the income of his or her spouse, if the spouse is a party to the lease or rental agreement. Nothing in this subdivision, however, shall, prohibit a lessor or landlord from considering the aggregate financial status of an individual with a disability and his or her spouse.

(c) Visually impaired or blind persons and persons licensed to train guide dogs for individuals who are visually impaired or blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code or guide dogs as defined in the regulations implementing Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336), and persons who are deaf or hearing impaired and persons authorized to train signal dogs for individuals who are deaf or hearing impaired, and other individuals with a disability and persons authorized to train service dogs for individuals with a disability, may take dogs, for the purpose of training them as guide dogs, signal dogs, or service dogs in any of the places specified in subdivisions (a) and (b). These persons shall ensure that the dog is on a leash and tagged as a guide dog, signal dog, or service dog by identification tag issued by the county clerk, animal control department, or other agency, as authorized by Chapter 3.5 (commencing with Section 30850) of Division 14 of the Food and Agricultural Code. In addition, the person shall be liable for any provable damage done to the premises or facilities by his or her dog.

(d) A violation of the right of an individual under the Americans with Disabilities Act of 1990 (Public Law 101-336) also constitutes a violation of this section, and nothing in this section shall be construed to limit the access of any person in violation of that act.

(e) Nothing in this section shall preclude the requirement of the showing of a license plate or disabled placard when required by enforcement units enforcing disabled persons parking violations pursuant to Sections 22507.8 and 22511.8 of the Vehicle Code.

(Added by Stats.1968, c. 461, §1. Amended by Stats.1969, c. 832, §1; Stats.1972, c. 819, §1; Stats.1974, c. 108, §1; Stats.1976, c. 971, §1; Stats.1976, c. 972, §1.5; Stats.1977, c. 700, §1; Stats.1978 c. 380, §12; Stats.1979 c. 293, §1; Stats.1980, c. 773, §1; Amended by Stats.1988, c. 1595, §2; Stats.1992, c. 913 (A.B. 1077), §5; Stats.1993, c. 1149 (A.B. 1419), §4; Stats.1993, c. 1214 (A.B. 551), §1.5; Stats.1994, c. 1257 (S.B.1240), §2; Stats 1996, c.498(S.B. 1687), §1.5.)

¹42 U.S.C.A. §12101 et. Seq.

§54.2. Guide, signal or service dogs; right to accompany individuals with a disability and trainers; damages

(a) Every individual with a disability has the right to be accompanied by a guide dog, signal dog, or service dog, especially trained for the purpose, in any of the places specified in Section 54.1 without being required to pay an extra charge or security deposit for the guide dog, signal dog, or service dog. However, the individual shall be liable for any damage done to the premises or facilities by his or her dog.

(b) Individuals who are blind or otherwise visually impaired and persons licensed to train guide dogs

for individuals who are blind or visually impaired pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code or as defined in regulations implementing Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336)¹, and individuals who are deaf or hearing impaired and persons authorized to train signal dogs for individuals with who are deaf or hearing impaired, and individuals with a disability and persons who are authorized to train service dogs for the individuals with a disability may take dogs, for the purpose of training them as guide dogs, signal dogs, or service dogs in any of the places specified in Section 54.1 without being required to pay an extra charge or security deposit for the guide dog, signal dog, or service dog. However, the person shall be liable for any damage done to the premises or facilities by his or her dog. These persons shall ensure the dog is on a leash and tagged as a guide dog, signal dog, or service dog by an identification tag issued by the county clerk, animal control department, or other agency, as authorized by Chapter 3.5 (commencing with Section 30850) of Title 14 of the Food and Agricultural Code.

A violation of the right of an individual under the Americans with Disability Act of 1990 (Public Law 101-336) also constitutes a violation of this section, and nothing in this section shall be construed to limit the access of any person in violation of that act.

(c) As used in this section, the terms "guide dog," "signal dog," and "service dog" have the same meanings as specified in Section 54.1.

(d) Nothing in this section precludes the requirement of the showing of a license plate or disabled placard when required by enforcement units enforcing disabled persons parking violations pursuant to Sections 22507.8 and 22511.8 of the Vehicle Code.

(Added by Stats.1968 c. 461 §1. Amended by Stats.1972, c. 819 §2; Stats.1979, c. 293 §2; Stats.1980, c. 773 §2; Stats.1988, c. 1595 §3; Stats.1992, c. 913 (A.B. 1077) §6; Stats.1994, c. 1257 (S.B.1240), §3; Stats 1996 c.498 (S.B. 1687), §2.)

¹42 U.S.C.A. §12101 et. seq.

§54.3. Violations; liability

(a) Any person or persons, firm or corporation who denies or interferes with admittance to or enjoyment of the public facilities as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for the actual damages and any amount as may be determined by a jury, or the court sitting without a jury, up to a maximum of three times the amount of actual damages but in no case less than one thousand dollars (\$1,000), and attorney's fees as may be determined by the court in addition thereto, suffered by any person denied any of the rights provided in Sections 54, 54.1, and 54.2. "Interfere," for purposes of this section, includes, but is not limited to, preventing or causing the prevention of a guide dog, signal dog, or service dog from carrying out its functions in assisting a disabled

person.

(b) Any person who claims to be aggrieved by an alleged unlawful practice in violation of Section 54, 54.1, or 54.2 may also file a verified complaint with the Department of Fair Employment and Housing pursuant to Section 12948 of the Government Code. The remedies in this section are nonexclusive and are in addition to any other remedy provided by law, including, but not limited to, any action for injunctive or other equitable relief available to the aggrieved party or brought in the name of the people of this state or of the United States.

(c) A person may not be held liable for damages pursuant to both this section and Section 52 for the same act or failure to act.

(Added by Stats.1968, c. 461 §1. Amended by Stats.1976, c. 971 §2; Stats.1976, c. 972, §2.5; Stats.1977, c. 881 §1; Stats.1981, c. 395 §1; Stats.1992, c. 913 (A.B. 1077) §7; Stats.1994, c. 1257 (S.B.1240), §4; Stats 1996, c.498 (S.B. 1687), §2.3)

§54.4. Blind pedestrian; failure to carry white cane

A blind or otherwise visually impaired pedestrian shall have all of the rights and privileges conferred by law upon other persons in any of the places, accommodations, or conveyances specified in Sections 54 and 54.1, notwithstanding the fact that the person is not carrying a predominately white cane (with or without a red tip), or using a guide dog. The failure of a blind or otherwise visually impaired person to carry such a cane or to use such a guide dog shall not constitute negligence per se.

(Added by Stats.1968, c. 461 §1. Amended by Stats.1994, c. 1257 (S.B.1240), §5.)

§54.5. White cane safety day; proclamation

Each year, the Governor shall publicly proclaim October 15 as White Cane Safety Day. He or she shall issue a proclamation in which:

(a) Comments shall be made upon the significance of this chapter.

(b) Citizens of the state are called upon to observe the provisions of this chapter and to take precautions necessary to the safety of disabled persons.

(c) Citizens of the state are reminded of the policies with respect to disabled persons declared in this chapter and he urges the citizens to cooperate in giving effect to them.

(d) Emphasis shall be made on the need of the citizenry to be aware of the presence of disabled

persons in the community and to keep safe and functional for the disabled the streets, highways, sidewalks, walkways, public buildings, public facilities, other public places, places of public accommodation, amusement and resort, and other places to which the public is invited, and to offer assistance to disabled persons upon appropriate occasions.

(e) It is the policy of this state to encourage and enable disabled persons to participate fully in the social and economic life of the state and to engage in remunerative employment.

(Added by Stats.1968, c. 461 §1. Amended by Stats.1994, c. 1257 (S.B.1240), §6.)

§54.6. Visually Impaired

As used in this part, "visually impaired" includes blindness and means having central visual acuity not to exceed 20/200 in the better eye, with corrected lenses, as measured by the Snellen test, or visual acuity greater than 20/200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle is not greater than 20 degrees.

(Added by Stats.1968, c. 461 §1. Amended by Stats.1994, c. 1257 (S.B.1240), §7.)

§54.7. Zoos or wild animal parks; facilities for guide, service or signal dogs accompanying handicapped persons

(a) Notwithstanding any other provision of law, the provisions of this part shall not be construed to require zoos or wild animal parks to allow guide dogs, signal dogs, or service dogs to accompany individuals with a disability in areas of the zoo or park where zoo or park animals are not separated from members of the public by a physical barrier. As used in this section, "physical barrier" does not include an automobile or other conveyance.

(b) Any zoo or wild animal park that does not permit guide dogs, signal dogs, or service dogs, to accompany individuals with a disability therein shall maintain, free of charge, adequate kennel facilities for the use of guide dogs, signal dogs, or service dogs belonging to these persons. These facilities shall be of a character commensurate with the anticipated daily attendance of individuals with a disability. The facilities shall be in an area not accessible to the general public, shall be equipped with water and utensils for the consumption thereof, and shall otherwise be safe, clean, and comfortable.

(c) Any zoo or wild animal park that does not permit guide dogs to accompany blind or visually impaired persons therein shall provide free transportation to blind or visually impaired persons on any mode of transportation provided for members of the public.

Each zoo or wild animal park that does not permit service dogs to accompany individuals with a

disability shall provide free transportation to individuals with a disability on any mode of transportation provided for a member of the public in cases where the person uses a wheelchair and it is readily apparent that the person is unable to maintain complete or independent mobility without the aid of the service dog.

(d) Any zoo or wild animal park that does not permit guide dogs to accompany blind or otherwise visually impaired persons therein shall provide sighted escorts for blind or otherwise visually impaired persons if they are unaccompanied by a sighted person.

(e) As used in this section, "wild animal park" means any entity open to the public on a regular basis, licensed by the United States Department of Agriculture under the Animal Welfare Act as an exhibit, and operating for the primary purposes of conserving, propagating, and exhibiting wild and exotic animals, and any marine, mammal, or aquatic park open to the general public.

(Added by Stats.1979, c. 525 §1. Amended by Stats.1988, c. 1595 §4; Stats.1994, c. 1257 (S.B.1240), §8.)

§54.8. Hearing impaired persons; assistive listening systems in civil or criminal proceedings; notice of need; availability; use in proceedings

(a) In any civil or criminal proceeding, including, but not limited to, traffic, small claims court, family court proceedings and services, and juvenile court proceedings, in any court-ordered or court-provided alternative dispute resolution, including mediation and arbitration, or in any administrative hearing of a public agency, where a party, witness, attorney, judicial employee, judge, juror, or other participant who is hearing impaired, the individual who is hearing impaired, upon his or her request, shall be provided with a functioning assistive listening system or a computer-aided transcription system. Any individual requiring this equipment shall give advance notice of his or her need to the appropriate court or agency at the time the hearing is set or not later than five days before the hearing.

(b) Assistive listening systems include, but are not limited to, special devices which transmit amplified speech by means of audio-induction loops, radio frequency systems (AM or FM), or infrared transmission. Personal receivers, headphones, and neck loops shall be available upon request from people who are hearing impaired.

(c) If a computer-aided transcription system is requested, sufficient display terminals shall be provided to allow the individual who is hearing impaired to read the real time transcript of the proceeding without difficulty.

(d) A sign shall be posted in a prominent place indicating the availability of, and how to request, an assistive listening system and a computer-aided transcription system. Notice of the availability of

the systems shall be posted with notice of trials.

(e) Each county shall have at least one portable assistive listening system for use by any court within the county. The system shall be in a location jointly determined by the county board of supervisors and the judges.

(f) The Judicial Council shall develop and approve official forms for notice of the availability of assistive listening systems and computer-aided transcription systems for individuals who are hearing impaired. The Judicial Council shall also develop and maintain a system to record utilization by the courts of these assistive listening systems and computer-aided transcription systems.

(g) If the individual who is hearing impaired is a juror, the jury deliberation room shall be equipped with an assistive listening system or a computer-aided transcription system upon the request of the juror.

(h) A court reporter may be present in the jury deliberating room during a jury deliberation if the services of a court reporter for the purpose of operating a computer-aided transcription system are required for a juror who is hearing impaired.

(i) In any of the proceedings referred to in subdivision (a), or in any administrative hearing of a public agency, in which the individual who is hearing impaired is a party, witness, attorney, judicial employee, judge, juror, or other participant, and has requested use of an assistive listening system or computer-aided transcription system, the proceedings shall not commence until the system is in place and functioning.

(j) As used in this section, "individual who is hearing impaired" means an individual with a hearing loss, who, with sufficient amplification or a computer-aided transcription system, is able to fully participate in the proceeding.

(k) In no case shall this section be construed to prescribe a lesser standard of accessibility or usability than that provided by Title II of the Americans with Disabilities Act of 1990 (Public Law 101-336)¹ and federal regulations adopted pursuant to that act.

(Added by Stats.1989, c. 1002, §1. Amended Stats.1992, c. 913 (A.B. 1077), §8; Stats.1993, c. 1214 (A.B. 551), §2.)

¹42 U.S.C.A. §12101 et.seq.

§55. Violations; injunction; action by person actually or potentially aggrieved

Any person who is aggrieved or potentially aggrieved by a violation of Section 54 or 54.1 of this code, Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code,

or Part 5.5 (commencing with Section 19955) of Division 13 of the Health and Safety Code may bring an action to enjoin the violation. The prevailing party in the action shall be entitled to recover reasonable attorney's fees.

(Added by Stats.1974, c. 1443 §1.)

§55.1. Violations; injunctions; district or city attorney, attorney general

In addition to any remedies available under the federal Americans with Disabilities Act of 1990, Public Law 101-336 (42 U.S.C. Sec. 12102), or other provisions of law, the district attorney, the city attorney, the Department of Rehabilitation acting through the Attorney General, or the Attorney General may bring an action to enjoin any violation of Section 54 or 54.1.

(Added by Stats.1976, c. 869 §1. Amended by Stats.1994, c. 1257 (S.B.1240), §9.)

§1360. Modification of unit by owner; facilitation of access for handicapped; approval by project association

(a) Subject to the provisions of the governing documents and other applicable provisions of law, if the boundaries of the separate interest are contained within a building, the owner of the separate interest may do the following:

(1) Make any improvements or alterations within the boundaries of his or her separate interest that do not impair the structural integrity or mechanical systems or lessen the support of any portions of the common interest development.

(2) Modify a unit in a condominium project, at the owner's expense, to facilitate access for persons who are blind, visually handicapped, deaf, or physically disabled, or to alter conditions which could be hazardous to these persons. These modifications may also include modifications of the route from the public way to the door of the unit for the purposes of this paragraph if the unit is on the ground floor or already accessible by an existing ramp or elevator. The right granted by this paragraph is subject to the following conditions.

(A) The modifications shall be consistent with applicable building code requirements.

(B) The modifications shall be consistent with the intent of otherwise applicable provisions of the governing documents pertaining to safety or aesthetics.

(C) Modifications external to the dwelling shall not prevent reasonable passage by other residents, and shall be removed by the owner when the unit is no longer occupied by persons requiring those modifications who are blind, visually handicapped, deaf, or physically

disabled.

(D) Any owner who intends to modify a unit pursuant to this paragraph shall submit his or her plans and specifications to the association of the condominium project for review to determine whether the modifications will comply with the provisions of this paragraph. The association shall not deny approval of the proposed modifications under this paragraph without good cause.

(b) Any change in the exterior appearance of a separate interest shall be in accordance with the governing documents and applicable provisions of law.

(Added by Stats.1985, c. 874, §14.)

§1361. Common Areas

Unless the declaration otherwise provides:

(a) In a community apartment project and condominium project, and in those planned developments with common areas owned in common by the owners of the separate interests, there are appurtenant to each separate interest nonexclusive rights of ingress, egress, and support, if necessary, through the common areas. The common areas are subject to these rights.

(b) In a stock cooperative, and in a planned development with common areas owned by the association, there is an easement for ingress, egress, and support, if necessary, appurtenant to each separate interest. The common areas are subject to these easements.

(Added by Stats 1985, c. 874, §14.)

EVIDENCE CODE

§754. Deaf or hearing impaired persons; interpreters; qualifications; guidelines; compensation; questioning; use of statements

§754.5. Use of Interpreter

§754. Deaf or hearing impaired persons; interpreters; qualifications; guidelines; compensation; questioning; use of statements

(a) As used in this section, "individual who is deaf or hearing impaired" means an individual with a hearing loss so great as to prevent his or her understanding language spoken in a normal tone, but does not include an individual who is hearing impaired provided with, and able to fully participate in the proceedings through the use of, an assistive listening system or computer-aided transcription equipment provided pursuant to Section 54.8 of the Civil Code.

(b) In any civil or criminal action, including, but not limited to, any action involving a traffic or

other infraction, any small claims court proceeding, any juvenile court proceeding, any family court proceeding or service, or any proceeding to determine the mental competency of a person, in any court-ordered or court-provided alternative dispute resolution, including mediation and arbitration, or any administrative hearing, where a party or witness is an individual who is deaf or hearing impaired and the individual who is deaf or hearing impaired is present and participating, the proceedings shall be interpreted in a language that the individual who is deaf or hearing impaired understands by a qualified interpreter appointed by the court or other appointing authority, or as agreed upon.

(c) For purposes of this section, "appointing authority" means a court, department, board, commission, agency, licensing or legislative body, or other body for proceedings requiring a qualified interpreter.

(d) For the purposes of this section, "interpreter" includes, but is not limited to, an oral interpreter, a sign language interpreter, or a deaf-blind interpreter, depending upon the needs of the individual who is deaf or hearing impaired.

(e) For purposes of this section, "intermediary interpreter" means an individual who is deaf or hearing impaired, or a hearing individual who is able to assist in providing an accurate interpretation between spoken English and sign language or between variants of sign language or between American Sign Language and other foreign languages by acting as an intermediary between the individual who is deaf or hearing impaired and the qualified interpreter.

(f) For purposes of this section, "qualified interpreter" means an interpreter who has been certified as competent to interpret court proceedings by a testing organization, agency, or educational institution approved by the Judicial Council as qualified to administer tests to court interpreters for individuals who are deaf or hearing impaired.

(g) In the event that the appointed interpreter is not familiar with the use of particular signs by the individual who is deaf or hearing impaired or his or her particular variant of sign language, the court or other appointing authority shall, in consultation with the individual who is deaf or hearing impaired or his or her representative, appoint an intermediary interpreter.

(h) Prior to July 1, 1992, the Judicial Council shall conduct a study to establish the guidelines pursuant to which it shall determine which testing organizations, agencies, or educational institutions will be approved to administer tests for certification of court interpreters for individuals who are deaf or hearing impaired. It is the intent of the Legislature that the study obtain the widest possible input from the public, including, but not limited to, educational institutions, the judiciary, linguists, members of the State Bar, court interpreters, members of professional interpreting organizations, and

members of the deaf and hearing-impaired communities. After obtaining public comment and completing its study, the Judicial Council shall publish these guidelines. By January 1, 1997, the judicial Council shall approve one or more entities to administer testing for court interpreters for individuals who are deaf or hearing impaired. Testing entities may include educational institutions, testing organizations, joint powers agencies, or public agencies.

Commencing July 1, 1997, court interpreters for individuals who are deaf or hearing impaired shall meet the qualifications specified in subdivision (f).

(i) Persons appointed to serve as interpreters under this section shall be paid, in addition to actual travel costs, the prevailing rate paid to persons employed by the court to provide other interpreter services unless such service is considered to be a part of the person's regular duties as an employee of the state, county, or other political subdivision of the state. Payment of the interpreter's fee shall be a charge against the county, or other political subdivision of the state, in which that action is pending. Payment of the interpreter's fee in administrative proceedings shall be a charge against the appointing board or authority.

(j) Whenever a peace officer or any other person having a law enforcement or prosecutorial function in any criminal or quasi-criminal investigation or proceeding questions or otherwise interviews an alleged victim or witness who demonstrates or alleges deafness or hearing impairment, a good faith effort to secure the services of an interpreter shall be made, without any unnecessary delay unless either the individual who is deaf or hearing impaired affirmatively indicates that he or she does not need or cannot use an interpreter, or an interpreter is not otherwise required by Title II of the Americans with Disabilities Act of 1990 (Public Law 101-336)¹ and federal regulations adopted thereunder.

(k) No statement, written or oral, made by an individual who the court finds is deaf or hearing impaired in reply to a question of a peace officer, or any other person having a law enforcement or prosecutorial function in any criminal or quasi-criminal investigation or proceeding, may be used against that individual who is deaf or hearing impaired unless the question was accurately interpreted and the statement was made knowingly, voluntarily, and intelligently and was accurately interpreted, or the court makes special findings that either the individual could not have used an interpreter or an interpreter was not otherwise required by Title II of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted thereunder and that the statement was made knowingly, voluntarily, and intelligently.

(l) In obtaining services of an interpreter for purposes of subdivision (j) or (k), priority shall be given to first obtaining a qualified interpreter.

(m) Nothing in subdivision (j) or (k) shall be deemed to supersede the requirement of subdivision

(b) for use of a qualified interpreter for individuals who are deaf or hearing impaired participating as parties or witnesses in a trial or hearing.

(n) In any action or proceeding in which an individual who is deaf or hearing impaired is a participant, the appointing authority shall not commence proceedings until the appointed interpreter is in full view of and spatially situated to assure proper communication with the participating individual who is deaf or hearing impaired.

(o) Each superior court shall maintain a current roster of qualified interpreters certified pursuant to subdivision (f).

(Amended by Stats.1977, c. 1182, §1; Stats.1984, c. 768, §2; Stats.1989, c. 1002, §2; Stats.1990, c. 1450 (S.B. 2046), §2; Stats.1991 c. 883 (S.B. 585), §1; Stats.1992, c. 118 (S.B.16), §1, effective July 7, 1992; Stats.1992, c. 913 (A.B.1077), §14; Stats 1995, c.143(A.B. 1833), §1, eff. July 18, 1995.)

¹42 U.S.C.A., §1201 et.seq.

§754.5. Privileged statements; deaf or hearing impaired persons; use of interpreter

Whenever an otherwise valid privilege exists between an individual who is deaf or hearing impaired and another person, that privilege is not waived merely because an interpreter was used to facilitate their communication.

(Added by Stats. 1990, c. 1450 (S.B.2046), §3. Amended by Stats.1992, c. 913 (A.B. 1077), §15.)

B. DISCRIMINATION

Government Code

- §11135. Programs or activities funded by state; discrimination on basis of ethnic group identification, religion, age, sex, color, or disability; federal act; definition
- §11136. Notice to contractor, grantee or local agency by state agency; probable cause to believe violation of statute or regulation; hearing
- §11137. Action to curtail state funding upon determination of violation
- §11138. Rules and regulations
- §11139. Prohibitions and sanctions; construction of article
- §11139.5. Standards and guidelines; establishment; assistance
- §12955. Unlawful practices
- §12955.1. Discrimination; disabled persons; design and construction of multifamily dwellings;

	building standards
§12955.2	Familial status
§12955.3	Disability
§12955.4	Religious organizations; preference to persons of same religion; restrictions
§12955.5	Discriminatory housing practices; collecting information
§12955.6	Construction with other laws
§12955.7	Coercion, intimidation, threats, or interference with rights
§12955.8	Unlawful practices; proof; business establishment
§12955.9	Housing for older persons; application
§12956	Retention of records upon notice of complaint
§19230.	Legislative declaration; state policy
§19231.	Definitions; judging undue hardship on a department program
§19232	Affirmative action programs; goals and timetables; state agencies
§19233	State personnel board; responsibilities
§19234	Review of hiring activities; disproportionate exclusion; correction of under representation
§19236	Plans to overcome underrepresentations; responsibilities of state personnel board
§19237	Report

§11135. Prohibited discrimination under program or activity funded directly by state or receives financial assistance from state

(a) No person in the State of California shall, on the basis of ethnic group identification, religion, age, sex, color, or disability, be unlawfully denied the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is funded directly by the state or receives any financial assistance from the state.

(b) With respect to discrimination on the basis of disability, programs and activities subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, except that if the laws of this state prescribe stronger protections and prohibitions, the programs and activities subject to subdivision (a) shall be subject to the stronger protections and prohibitions.

(c) As used in this section, "disability" means any of the following with respect to an individual:
(1) a physical or mental impairment that substantially limits one or more of the major life activities of the individual, (2) a record of an impairment as described in paragraph (1), or (3) being regarded as having an impairment as described in paragraph (1).

(Added by Stats.1977, c. 972, §1. Amended by Stats.1992, c. 913 (A.B. 1077), §18; Stats.1994, c. 146 (A.B.3601), §66.)

§11136. Notice to contractor, grantee or local agency by state agency; probable cause to believe violation of statute or regulation; hearing

Whenever a state agency that administers a program or activity that is funded directly by the state or receives any financial assistance from the state, has reasonable cause to believe that a contractor, grantee, or local agency has violated the provisions of Section 11135, or any regulation adopted to implement such section, the head of the state agency shall notify the contractor, grantee, or local agency of such violation and shall, after considering all relevant evidence, determine whether there is probable cause to believe that a violation of the provisions of Section 11135, or any regulation adopted to implement such section has occurred. In the event that it is determined that there is probable cause to believe that the provisions of Section 11135, or any regulation adopted to implement such section, have been violated, the head of the state agency shall cause to be instituted a hearing conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500) of this part to determine whether a violation has occurred.

(Added by Stats.1977, c. 972, p. 2942, §1.)

§11137. Action to curtail state funding upon determination of violation

If it is determined that a contractor, grantee, or local agency has violated the provisions of this article, the state agency that administers the program or activity involved shall take action to curtail state funding in whole or in part to such contractor, grantee, or local agency.

(Added by Stats.1977, c. 972, p. 2943, §1.)

§11138. Rules and regulations

Each state agency that administers a program or activity that is funded directly by the state or receives any financial assistance from the state and that enters into contracts for the performance of services to be provided to the public in an aggregate amount in excess of one hundred thousand dollars (\$100,000) per year shall, in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of this part, adopt such rules and regulations as are necessary to carry out the purpose and provisions of this article.

(Added by Stats.1977, c. 972, p. 2943, §1.)

§11139. Prohibitions and sanctions; construction of article

The prohibitions and sanctions imposed by this article are in addition to any other prohibitions and sanctions imposed by law.

This article shall not be interpreted in a manner that would frustrate its purpose.

This article shall not be interpreted in a manner that would adversely affect lawful programs which benefit the disabled, the aged, minorities and women.

This article and regulations adopted pursuant to this article may be enforced by a civil action for equitable relief.

(Added by Stats.1977, c. 972, p. 2943, §1.)

§11139.5. Standards and guidelines; establishment; assistance

The Secretary of the Health and Welfare Agency, with the advice and concurrence of the Fair Employment and Housing Commission, shall establish standards for determining which persons are protected by this article and standards for determining what practices are discriminatory. The secretary, with the cooperation of the Fair Employment and Housing Commission, shall assist state agencies in coordinating their programs and activities and shall consult with such agencies, as necessary, so that consistent policies, practices, and procedures are adopted with respect to the enforcement of the provisions of the article.

(Added by Stats.1977, c. 972, p. 2943, §1. Amended by Stats.1980, c. 992, p. 3138, §1; Stats.1982, c. 1270, p. 4691, §24.)

§12955. Unlawful practices

It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability of that person.

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, or disability of any person seeking to purchase, rent or lease any housing accommodation.

(c) For any person to make, print, or publish, or cause to be made, printed or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability or an intention to make any such preference, limitation, or discrimination.

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability,

source of income, or on any other basis prohibited by that section.

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner's dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, sexual orientation, marital status, ancestry, disability, source of income, familial status, or national origin.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, source of income, familial status, or disability.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, sexual orientation, marital status, ancestry, disability, familial status, source of income, or national origin.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, sexual orientation, familial status, source of income, disability, or national origin.

(l) To discriminate through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the

Planning and Zoning Law (Title 7 (commencing with Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence of a restrictive covenant, regardless of whether accompanied by a statement that the restrictive covenant is repealed or void. This paragraph shall become operative on January 1, 2001.

(m) As used in this section, "race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(n) To use a financial or income standard in the rental of housing that fails to account for the aggregate income of persons residing together or proposing to reside together on the same basis as the aggregate income of married persons residing together or proposing to reside together.

(o) In instances where there is a government rent subsidy, to use a financial or income standard in assessing eligibility for the rental of housing that is not based on the portion of the rent to be paid by the tenant.

(p) (1) For the purpose of this section, "source of income" means lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant.

(2) For the purposes of this section, it shall not constitute discrimination based on source of income to make a written or oral inquiry concerning the level or source of income.

(q) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

(Added by Stats.1980, c.992, §4. Amended by Stats.1992, c. 182 (S.B.1234), §7; Stats.1993, c. 1277 (A.B.2244), §4; Added by Stats.1999, c.590, §5, operative Jan. 1, 2005; Stats 1999, c. 591 (A.B. 1670), §11.5, operative Jan. 1, 2005; Stats 1999, c.592 (A.B. 1001), § 9.83, operative Jan. 1, 2005.)

§12955.1. Discrimination; disabled persons; design and construction of multifamily dwellings; building standards

For purposes of Section 12955, "discrimination" includes, but is not limited to, a failure to design and construct a covered multifamily dwelling in a manner that allows access to and use by disabled persons by providing, at a minimum, the following features:

(a) All covered multifamily dwellings shall have at least one building entrance on an accessible route, unless it is impracticable to do so because of the terrain or unusual characteristics of the site. The burden of establishing impracticability because of terrain or unusual site characteristics is on the person or persons who designed or constructed the housing facility.

(b) All covered multifamily dwellings with a building entrance on an accessible route shall be designed and constructed in a manner that complies with all of the following:

(1) The public and common areas are readily accessible to and useable by handicapped persons.

(2) All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs.

(3) All premises within covered multifamily dwelling units contain the following features of adaptable design:

(A) An accessible route into and through the covered dwelling unit.

(B) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.

(C) Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower stall, and shower seat, where those facilities are provided.

(D) Useable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

(c) For purposes of this section, "covered multifamily dwellings" mean buildings consisting of four or more dwelling units if the buildings have one or more elevators; and ground floor dwelling units in other buildings consisting of four or more dwelling units. Dwelling units within a single structure separated by firewalls do not constitute separate buildings.

(d) Notwithstanding Section 12935, regulations adopting building standards necessary to implement, interpret, or make specific the provisions of this section shall be developed by the Office of the State Architect for public housing and by the Department of Housing and Community Development for all other residential occupancies, and shall be adopted pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of the Health and Safety Code. Prior to the effective date of regulations

promulgated pursuant to this subdivision, existing federal accessibility standards that provide, to persons with disabilities, greater protections than existing state accessibility regulations shall apply.

After regulations pursuant to this subdivision become effective, particular state regulations shall apply if they provide, to persons with disabilities, the same protections as, or greater protections than, the federal standards. If particular federal regulations provide greater protections than state regulations, then those federal standards shall apply. If the United States Department of Housing and Urban Development determines that any portion of the state regulations are not equivalent to the federal standards, the federal standards shall, as to those portions, apply to the design and construction of covered multifamily dwellings until the state regulations are brought into compliance with the federal standards. The appropriate state agency shall provide notice pursuant to the Administrative Procedures Act (Chapter 5 (commencing with Section 11500) of Part 5 of Division 3 of Title 2) of that determination.

(e) In investigating discrimination complaints, the department shall apply the building standards contained in Title 24 of the California Code of Regulations to determine whether a covered multifamily dwelling is designed and constructed for access to and use by disabled persons in accordance with this section.

(f) The building standard requirements for persons with disabilities imposed by this section shall meet or exceed the requirements under the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and its implementing regulations (24 C.F.R. 100.1 et seq.) and the existing state law building standards contained in Title 24 of the California Code of Regulations.

(Added by Stats 1992, C. 182 (S.B. 1234), §8. Amended by Stats 1993, C. 1277, (A.B. 2244), §5.)

§12955.2. Familial status

For purposes of this part, "familial status" means one or more individuals under 18 years of age who reside with a parent, another person with care and legal custody of that individual, a person who has been given care and custody of that individual by a state or local governmental agency that is responsible for the welfare of children, or the designee of that parent or other person with legal custody of any individual under 18 years of age by written consent of the parent or designated custodian. The protections afforded by this part against discrimination on the basis of familial status also apply to any individual who is pregnant, who is in the process of securing legal custody of any individual under 18 years of age, or who is in the process of being given care and custody of any individual under 18 years of age by a state or local governmental agency responsible for the welfare of children.

(Added by Stats. 1992, c. 182, (S.B. 1234), §9.)

§12955.3. Disability

For purposes of this part, “disability” includes, but is not limited to, any physical or mental disability as defined in Section 12926.

(Added by Stats. 1992, c. 182(S.B. 1234), §10. Amended by Stats.2000, c.1049 (A.B.2222), § 8.)

§12955.4. Religious organizations; preference to persons of same religion; restrictions

Nothing in this part shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to those persons, unless membership in that religion is restricted on account of race, color, or national origin.

(Added by Stats. 1992, c. 182, (S.B. 1234), §11.)

§12955.5. Discriminatory housing practices; collecting information

Nothing in this part shall preclude the government from establishing programs to collect information relating to discriminatory housing practices.

(Added by Stats. 1992, c. 182(S.B. 1234), §12.)

§12955.6. Construction with other laws

Nothing in this part shall be construed to afford to the classes protected under this part, fewer rights or remedies than the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and its implementing regulations (24 C.F.R. 100.1 et seq.), or state law relating to fair employment and housing as it existed prior to the effective date of this section. Any state law that purports to require or permit any action that would be an unlawful practice under this part shall to that extent be invalid. This part may be construed to afford greater rights and remedies to an aggrieved person than those afforded by federal law and other state laws.

(Added by Stats. 1992, c. 182 (S.B. 1234), §13. Amended by Stats. 1993, c. 1277 (A.B. 2244), §5.5)

§12955.7. Coercion, intimidation, threats, or interference with rights

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by Section 12955 or 12955.1.

(Added by Stats. 1993, c. 1277 (A.B. 2244), §6.)

§12955.8. Unlawful practices; proof; business establishment

For purposes of this article, in connection with unlawful practices:

(a) Proof of an intentional violation of this article includes, but is not limited to, an act or failure to act that is otherwise covered by this part, that demonstrates an intent to discriminate in any manner in violation of this part. A person intends to discriminate if race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, or ancestry is a motivating factor in committing a discriminatory housing practice even though other factors may have also motivated the practice. An intent to discriminate may be established by direct or circumstantial evidence.

(b) Proof of a violation causing a discriminatory effect is shown if an act or failure to act that is otherwise covered by this part, and that has the effect, regardless of intent, of unlawfully discriminating on the basis of race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, or ancestry. A business establishment whose action or inaction has an unintended discriminatory effect shall not be considered to have committed an unlawful housing practice in violation of this part if the business establishment can establish that the action or inaction is necessary to the operation of the business and effectively carries out the significant business need it is alleged to serve. In cases that do not involve a business establishment, the person whose action or inaction has an unintended discriminatory effect shall not be considered to have committed an unlawful housing practice in violation of this part if the person can establish that the action or inaction is necessary to achieve an important purpose sufficiently compelling to override the discriminatory effect and effectively carries out the purpose it is alleged to serve.

(1) Any determination of a violation pursuant to this subdivision shall consider whether or not there are feasible alternatives that would equally well or better accomplish the purpose advanced with a less discriminatory effect.

(2) For purposes of this subdivision, the term "business establishment" shall have the same meaning as in Section 51 of the Civil Code.

(Added by Stats. 1993, c. 1277 (A.B. 2244 §7. Amended by Stats. 1999, c. 592 (A.B. 1001), §10.)

§12955.9. Housing for older persons; application

(a) The provisions of this part relating to discrimination on the basis of familial status shall not apply to housing for older persons.

(b) As used in this section, "housing for older persons" means any of the following:

(1) Housing provided under any state or federal program that the Secretary of Housing and Urban Development determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program.

(2) Housing that meets the standards for senior housing in Sections 51.2, 51.3, and 51.4 of the Civil Code, except to the extent that those standards violate the prohibition of familial status discrimination in the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and implementing regulations.

(3) Mobilehome parks that meet the standards for "housing for older persons" as defined in the federal Fair Housing Amendments Act of 1988 and implementing regulations.

(c) For purposes of this section, the burden of proof shall be on the owner to prove that the housing qualifies as housing for older persons.

(Added by Stats. 1993, c. 1277, (A.B. 2244), §8.)

§12956. Retention of records upon notice of complaint

Upon notice that a verified complaint against it has been filed under this part, any owner of housing accommodations shall maintain and preserve any and all rental records or any other written materials relevant to the complaint, until the complaint is fully and finally disposed of and all appeals or related proceedings terminated.

(Added by Stats. 1987, c. 605, §5.)

§19230. Legislative declaration; state policy

The Legislature hereby declares that:

(a) It is the policy of this state to encourage and enable individuals with a disability to participate fully in the social and economic life of the state and to engage in remunerative employment.

(b) It is the policy of this state that qualified individuals with a disability shall be employed in the state service, the service of the political subdivisions of the state, in public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as the nondisabled, unless it is shown that the particular disability is job related.

(c) It is the policy of this state that a department, agency, or commission shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee who is an individual with a disability, unless the hiring authority can demonstrate that the accommodation would impose an undue hardship on the operation of its program. A department shall not deny any employment opportunity to a qualified applicant or employee who is an individual with a disability if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the applicant or employee.

(Added by Stats.1977, c. 1196, p. 3977, §2. Amended by Stats.1987, c. 292 , §1; Stats.1992, c. 913 (A.B. 1077), §27.)

§19231. Definitions; judging undue hardship on a department program

As used in this article, “individual with a disability” means any individual who has a physical or mental disability as defined in Section 12926.

(Added by Stats.1977, c. 1196, §2. Amended by Stats.1987, c. 292, §2; Stats.1992, c. 913, (A.B. 1077), §28. Amended by Stats.2000, c.1048(S.B. 2025), §1; Stats.2000, c.1049 (A.B. 2222), §9.)

§19232. Affirmative action programs; goals and timetables; state agencies.

Each state agency shall be responsible for establishing an effective affirmative action program to ensure individuals with a disability, who are capable of remunerative employment, access to positions in state service on an equal and competitive basis with the general population.

Each state agency shall develop and implement an affirmative action employment plan for individuals with a disability, which shall include goals and timetables. These goals and timetables shall be set annually for disabilities identified pursuant to guidelines established by the State Personnel Board, and shall be submitted to the board no later than June 1 of each year beginning in 1978, for review and approval or modification. Goals and timetables shall be made available to the public upon request.

(Added by Stats. 1997, c. 1196, p. 3977, §2. Amended by Stats. 1992, c.913 (A.B. 1077), §29)

§19233. State personnel board; responsibilities.

The State Personnel Board shall be responsible for the following:

(a) Outline specific actions to improve the representation of individuals with a disability in the state work force and to ensure equal and fair employment practices for employees who are individuals with a disability.

(b) Survey the number of individuals with a disability in each department by at least job category and salary range for the purpose of developing goals and timetables pursuant to Section 19232 and compare those numbers with the number of individuals with a disability in the work force.

(c) Establish guidelines for state agencies and departments to set goals and timetables to improve the representation of individuals with a disability in the state work force. Goals and timetables shall be set by at least job category.

(Added by Stats. 1977, c. 1196, p. 3977, §2. Amended by Stats. 1992, c. 913 (A.B. 1077), §30.)

§19234. Review of hiring activities; disproportionate exclusion; correction of under representation

Each state agency shall annually review its hiring activities designed to achieve the employment objectives established pursuant to subdivision (c) of Section 19233 to determine if any category of individuals with a disability have been disproportionately excluded on a non-job-related basis from employment. If any category has been so excluded, the agency shall correct that underrepresentation.

(Added by Stats. 1977, c. 1196, p. 3977, §2. Amended by Stats. 1992, c. 913 (A.B. 1077), §31.)

§19236. Plans to overcome underrepresentations; responsibilities of state personnel board

The State Personnel Board shall provide technical assistance, statewide advocacy, coordination, and monitoring of plans to overcome any underrepresentation determined pursuant to Section 19234.

(Added by Stats. 1977, c. 1196, p. 3977, §2.)

§19237. Report

On or before November 15 of each year, beginning in 1978, the State Personnel Board shall report to the Governor and the Legislature on the current activity, future plans, and past accomplishments of the overall employment program for individuals with a disability in state government, including an evaluation of the achievement of annual employment objectives.

(Added by Stats. 1977, c. 1196, p. 3977, §2. Amended by Stats. 1992, c. 913(A.B. 1077), §33.)

C. DISCRIMINATION BY LICENSED PROFESSIONALS

Business and Professions Code

§125.6. Refusal to perform licensed activity; aiding or inciting refusal of performance by another licensee; discrimination or restriction in performance; race, color, sex, religion, ancestry, disability, marital status, or national origin

Every person who holds a license under the provisions of this code is subject to disciplinary action under the disciplinary provisions of this code applicable to such person if, because of the applicant's race, color, sex, religion, ancestry, disability, marital status, or national origin, he or she refuses to perform the licensed activity or aids or incites the refusal to perform such licensed activity by another licensee, or if, because of the applicant's race, color, sex, religion, ancestry, disability, marital status, or national origin, he or she makes any discrimination, or restriction in the performance of the licensed activity. Nothing in this section shall be interpreted to apply to discrimination by employers with regard to employees or prospective employees, nor shall this section authorize action against any club license issued pursuant to Article 4 (commencing with Section 23425) of Chapter 3 of Division 9 because of discriminatory membership policy. The presence of architectural barriers to an individual with physical disabilities which conform to applicable state or local building codes and regulations shall not constitute discrimination under this section.

Nothing in this section requires a person licensed pursuant to Division 2 (commencing with Section 500) to permit an individual to participate in, or benefit from, the licensed activity of the licensee where that individual poses a direct threat to the health or safety of others. For this purpose, the term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids and services.

"License," as used in this section, includes "certificate," "permit," "authority," and "registration" or any other indicia giving authorization to engage in a business or profession regulated by this code.

"Applicant," as used in this section means a person applying for licensed services provided by a person licensed under this code.

"Disability" means any of the following with respect to an individual:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the individual.

(b) A record of such an impairment.

(c) Being regarded as having such an impairment.

(Added by Stats.1974, c. 1350, §1. Amended by Stats.1977, c. 293, §1; Stats.1980, c. 191, §1; Stats.1992, ch. 913 (A.B.1077), §2.)

Insurance Code

- §10144. Physically or mentally impaired person; coverage and rates
- §10144.2 Victims of domestic violence; health care service plans; enrollment, coverage or rate discrimination; underwriting coverage on basis of medical condition
- §10145. Blindness or partial blindness

§10144. Physically or mentally impaired person; coverage and rates

No insurer issuing, providing, or administering any contract of individual or group insurance providing life, annuity, or disability benefits applied for and issued on or after January 1, 1984 shall refuse to insure, or refuse to continue to insure, or limit the amount, extent, or kind of coverage available to an individual, or charge a different rate for the same coverage solely because of a physical or mental impairment, except where the refusal, limitation or rate differential is based on sound actuarial principles or is related to actual and reasonably anticipated experience.

"Physical or mental impairment" means any physical, sensory, or mental impairment which substantially limits one or more of that person's major life activities.

(Added by Stats.1980, c. 352, p.697, §2; Amended by Stats.1982, c. 620, p. 2611, §1, operative January 1, 1984; Stats.1985, c. 971, §1.5.)

§10144.1. Disability insurer; claimant with terminal illness; experimental medical procedure or plan of treatment; coverage denial; notification requirements; review rights.

A disability insurer that denies coverage for an experimental medical procedure or plan of treatment for a claimant with a terminal illness, which for the purposes of this section refers to an incurable or irreversible condition that has a high probability of causing death within one year or less, under a disability insurance policy that includes hospital, medical, or surgical coverage issued in this state shall provide written notification directly to the claimant or representative, which shall include all of the following:

(a) The specific medical and scientific reasons for the denial and specific references to pertinent policy provisions upon which the denial is based.

(b) A description of the alternative medical procedures or treatments covered by the policy, if any. Compliance with this subdivision by an insurer shall not be construed to mean that the insurer is engaging in the unlawful practice of medicine.

(c) A description of the process by which the claimant or representative may exercise his or her right to appeal the denial and obtain and participate in a review of the information provided to the claimant or representative pursuant to subdivisions (a) and (b). The review shall not be limited to written communication and shall be provided by the appropriate named fiduciary or his or her designee rendering the decision. The review shall be provided to the claimant within 30 calendar days following the receipt of the request for review. However, the review required by this section shall be held within five business days if the treating physician determines, in consultation with the medical director of the insurer, based on standard medical practice, that the effectiveness of either the proposed treatment, services, or supplies or any alternative treatment, services, or supplies covered by the policy, would be materially reduced if not provided at the earliest possible date.

§10144.2. Victims of domestic violence; health care service plans; enrollment, coverage or rate discrimination; underwriting coverage on basis of medical condition.

- (a) No disability insurer covering hospital, medical, or surgical expenses shall deny, refuse to insure, refuse to renew, cancel, restrict, or otherwise terminate, exclude, or limit coverage or charge a different rate for the same coverage, on the basis that the applicant or insured person is, has been, or may be a victim of domestic violence.
- (b) Nothing in this section shall prevent a disability insurer covering hospital, medical, or surgical expenses from underwriting coverage on the basis of the medical condition of an individual so long as the consideration of the condition (1) does not take into account whether such an individual's medical condition was caused by an act of domestic violence, (2) is the same with respect to an applicant or insured who is not the subject of domestic violence as with an applicant or insured who is the subject of domestic violence, and (3) does not violate any other act, regulation, or rule of law. The fact that an individual is, has been, or may be the subject of domestic violence shall not be considered a medical condition.
- (c) As used in this section, "domestic violence" means domestic violence, as defined in Section 6211 of the Family Code.

(Added by Stats. 1995, c. 603(A.B. 1973), §2.)

§10145. Blindness or partial blindness

No insurer issuing, providing, or administering any contract of individual or group insurance providing life, annuity, or disability benefits applied for and issued on or after January 1, 1986, shall refuse to insure, or refuse to continue to insure, or limit the amount, extent, or kind of coverage available to an individual, or charge a different rate for the same coverage solely because of blindness or partial blindness.

"Blindness or partial blindness" means central visual acuity of not more than 20/200 in the better eye, after correction, or visual acuity greater than 20/200 but with a limitation in the fields of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees, certified by a licensed physician and surgeon who specializes in diseases of the eye or a licensed optometrist.

(Added by Stats.1985, c. 971, §2.)

STATE HISTORIC BUILDING CODE

Division 13. Part 2.7.

Health and Safety Code

- §18951. Purpose
- §18952. Application
- §18953. Intent
- §18954. Repairs, alterations, and additions; application of building standards and building regulations; physically handicapped accessibility standard
- §18955. Qualified historical building or structure
- §18956. Application of Government Code, Public Resources Code, and other statutes and regulations
- §18957. Authorized building and fire officials; performance of duties
- §18958. Additional agencies authorized to adopt rules and regulations
- §18959. Administration and enforcement
- §18959.5. Alternative building standards, rules and regulations; historical buildings code board
- §18960. State historical building code board
- §18961. Review, enforcement and administration of variances, appeals procedure; agency to consider alternative provisions of the part and obtain review

§18951. Purpose

It is the purpose of this part to provide alternative building regulations and building standards for the rehabilitation, preservation, restoration (including related reconstruction), or relocation of buildings or structures designated as historic buildings. Such alternative building standards and building regulations are intended to facilitate the restoration or change of occupancy so as to preserve their original or restored architectural elements and features, to encourage energy conservation and a cost effective approach to preservation, and to provide for the safety of the building occupants.

(Added by Stats.1975, c. 906, p.2005, §1. Amended Stats.1977, c. 707, p.2267, §1, effective September 8, 1977; Stats.1979, c. 1152, p.4304, §164.)

§18952. Application

This part shall apply to all qualified historical structures as defined in Section 18955.

(Added by Stats. 1975, c.906, p.2005, §1.)

§18953. Intent

It is the intent of this part to provide means for the preservation of the historical value of designated buildings and, concurrently, to provide reasonable safety from fire, seismic forces or other hazards for occupants of such buildings, and to provide reasonable availability to and usability by, the physically handicapped.

(Added by Stats.1975, c. 906, p.2005, §1. Amended by Stats.1981, c. 598, p. 2309, §1.)

§18954. Repairs, alterations, and additions; application of building standards and building regulations; physically handicapped accessibility standards

Repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, moving, or continued use of a historical building or structure may be made if they conform to this part. The building department of every city or county shall apply the provisions of alternative building standards and building regulations adopted pursuant to Section 18959.5 in permitting repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, safety, moving, or continued use of a historical building or structure. A state agency shall apply the alternative building regulations adopted pursuant to Section 18959.5 in permitting repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, safety, moving or continued use of a historical building or structure.

The application of any alternative standards for the provision of access to the physically handicapped or exemption from access requirements shall be done on a case-by-case basis and item-by-item basis, and shall not be applied to an entire building or structure without individual consideration of each item, and shall not be applied to related sites or areas except on an item-by-item basis.

(Added by Stats.1975, c. 906, p. 2005, §1. Amended by Stats.1979, c. 1152, p. 4304, §165; Stats.1981, c. 598, p. 2309, §2; Stats.1984, c. 1314, §1, operative July 1, 1985; Stats.1990, c. 625 (S.B. 2775), §1.)

§18955. Qualified historical building or structure

For the purposes of this part, a qualified historical building or structure is any structure, collection of structures, and their associated sites deemed of importance to the history, architecture, or culture of an area by an appropriate local or state governmental jurisdiction. This shall include structures on existing or future national, state or local historical registers or official inventories, such as the National Register of Historic Places, State Historical Landmarks, State Points of Historical Interest, and city or county registers or inventories of historical or architecturally significant sites, places, historic districts or landmarks.

(Added by Stats.1975, c. 906, p. 3006, §1. Amended by Stats.1977, c. 707, p. 2267, §2, effective September 8, 1977.)

§18956. Application of Government Code, Public Resources Code, and other statutes and regulations

The application of the provisions of Part 5.5 (commencing with Section 19955) of Division 13 of this code, Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code, Division 15 (commencing with Section 25000) of the Public Resources Code, and of any other statute or regulation, as they may apply to qualified historical buildings or structures, shall be governed by this part.

(Added by Stats.1975, c. 906, p.2006, §1. Amended by Stats.1976, c. 192, p. 372, §1, effective May 28, 1976; Stats.1978, c. 555, p. 1729, §1, effective August 25, 1978; Stats.1980, c. 676, p. 1951, §169.)

§18957. Authorized building and fire officials; performance of duties

Nothing in this part shall be construed to prevent authorized building or fire officials from the performance of their duties when in the process of protecting the public health, safety, and welfare.

(Added by Stats. 1957, c. 906, p.2006, §1.)

§18958. Additional agencies authorized to adopt rules and regulations

Except as provided in Section 18930, the following state agencies, in addition to the State Historical Building Safety Board, shall have the authority to adopt rules and regulations pursuant to the State Historical Building Code governing the rehabilitation, preservation, restoration, related reconstruction, safety, or relocation of qualified historical buildings and structures within their

jurisdiction:

- (a) The Office of the State Architect.
- (b) The State Fire Marshal.
- (c) The State Building Standards Commission, but only with respect to approval of building standards.
- (d) The Department of Housing and Community Development.
- (e) The Department of Transportation.
- (f) Other state agencies that may be affected by this part.

(Added by Stats.1975, c. 906, p.2006, §1. Amended by Stats.1979, c. 1152, p.4305, §166; Stats.1981, c. 598, p.2310, §3; Stats.1984, c. 1314, §2, operative July 1, 1985; Stats.1990, c. 625 (S.B. 2775), §3.)

§18959. Administration and enforcement

- (a) Except as otherwise provided in Part 2.5 (commencing with Section 18901), all the state agencies shall administer and enforce this part with respect to qualified historical buildings or structures under their respective jurisdiction.
- (b) Except as otherwise provided in Part 2.5 (commencing with Section 18901), all local building authorities shall administer and enforce this part with respect to qualified historical buildings or structures under their respective jurisdictions where applicable.
- (c) The State Historical Building Safety Board shall coordinate and consult with the other applicable state agencies affected by this part and, except as provided in Section 18943, disseminate provisions adopted pursuant to this part to all local building authorities and state agencies at cost.
- (d) Regulations adopted by the State Fire Marshal pursuant to this part shall be enforced in the same manner as regulations are enforced under Sections 13145, 13146, and 13146.5.
- (e) Regular and alternative building standards published in the State Building Standards Code shall be enforced in the same manner by the same governmental entities as provided by law.
- (f) When administering and enforcing the provisions of this part, all local agencies may make changes or modifications in the requirements contained in the State Historical Building Code, as described in Section 18944.7, as it determines are reasonably necessary because of local climatic, geological, seismic, and topographical conditions. The local agency shall make an express finding that the modifications or changes are needed, and the finding shall be available as a public record. A copy of the finding and change or modification shall be filed with the State Historical Building Safety Board. No modification or change shall become effective or operative for any purpose until the finding and modification or change has been filed with the board.

(Added by Stats.1975, c. 906, p.2006, §1. Amended by Stats.1977, c. 707, p.2267, §3, effective September 8, 1977; Stats.1979, c. 1152, p 4305, §167; Stats.1981, c. 598, p.2310, §4; Stats.1984, c. 1314, §3, operative July 1, 1985; Stats.1985, c. 106, §84; Stats.1990, c. 625 (S.B. 2775), §5.)

§18959.5. Alternative building standards, rules and regulations; historical buildings code board

Subject to the applicable provisions of Part 2.5 (commencing with Section 18901) of this division, the State Historical Building Safety Board shall adopt and submit alternative building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division and may adopt, amend, and repeal other alternative rules and regulations under this part which the board has recommended for adoption under subdivision (b) of Section 18960 by the State Architect or other appropriate state agencies.

(Added by Stats.1977, c. 707, p.2268, §4, effective September 8, 1977. Amended by Stats.1979, c. 1152, p. 4305, §168; Stats.1984, c. 1314, §4, operative July 1, 1985; Stats.1990, c. 625, (S.B. 2775) §7.)

§18960. State historical building code board

(a) A State Historical Building Safety Board is hereby established within the Office of the State Architect which shall be composed of qualified experts in their respective fields who shall represent various state and local public agencies, professional design societies and building and preservation oriented organizations.

(b) This board shall act as a consultant to the State Architect and to the other applicable state agencies. The board shall recommend to the State Architect and the other applicable state agencies rules and regulations for adoption pursuant to this part.

(c) The board shall also act as a review body to state and local agencies with respect to interpretations of this part as well as on matters of administration and enforcement of it. The board's decisions shall be reported in printed form.

(1) Notwithstanding subdivision (b) of Section 18945, if any local agency administering and enforcing this part or any person adversely affected by any regulation, rule, omission, interpretation, decision, or practice of this agency representing a building standard wishes to appeal the issue for resolution to the State Historical Building Safety Board, these parties may appeal to the board. The board may accept the appeal only if it determines that issues involved in the appeal have statewide significance.

(2) The State Historical Building Safety Board shall, upon making a decision on an appeal pursuant

to paragraph (1), send a copy to the State Building Standards Commission.

(3) Requests for interpretation by local agencies of the provisions of this part may be accepted for review by the State Historical Building Safety Board. A copy of an interpretation decision shall be sent to the State Building Standards Commission in the same manner as paragraph (2).

(4) The State Historical Building Safety Board may charge a reasonable fee, not to exceed the cost of the service, for requests for copies of their decisions and for requests for review by the board pursuant to paragraph (1) or (3). All funds collected pursuant to this paragraph shall be deposited in the State Historical Building Code Fund, which is hereby established, for use by the State Historical Building Safety Board. The State Historical Building Code Fund and the fees collected therefor, and the budget of the State Historical Safety Board, shall be subject to annual appropriation in the Budget Act.

(5) Local agencies may also charge reasonable fees not to exceed the cost for making an appeal pursuant to paragraph (1) to persons adversely affected as described in that appeal.

(6) All other appeals involving building standards under this part shall be made as set forth in subdivision (a) of Section 18945.

(d) The board shall be composed of representatives of state agencies and public and professional building design, construction, and preservation organizations experienced in dealing with historic buildings. Unless otherwise indicated, each named organization shall appoint its own representatives. Each of the following shall have one member on the board who shall serve without pay, but shall receive actual and necessary expenses incurred while serving on the board:

- (1) Office of the State Architect.
- (2) The State Fire Marshal.
- (3) The State Historical Resources Commission.
- (4) The California Occupational Safety and Health Standards Board.
- (5) California Council, American Institute of Architects.
- (6) Structural Engineers Association of California.
- (7) A mechanical engineer, Consulting Engineers Association of California
- (8) An electrical engineer, Consulting Engineers Association of California.
- (9) California Council of Landscape Architects.
- (10) The Department of Housing and Community Development.
- (11) The Department of Parks and Recreation.
- (12) County Supervisors Association of California.
- (13) League of California Cities.

- (14) The Office of Statewide Health Planning and Development.
- (15) The Department of Rehabilitation.
- (16) The California Chapter of the American Institute of City Planners.
- (17) The Department of Transportation.
- (18) The California Preservation Foundation.
- (19) The Seismic Safety Commission.
- (20) The California Building Officials.

The 20 members listed above shall select a building contractor as a member of the board. The members shall serve without pay, but shall receive actual and necessary expenses incurred while serving on the board.

Each of the appointing authorities shall appoint, in the same manner as for members, an alternate in addition to a member. The alternate member shall serve in place of the member at such meetings of the board as the member is unable to attend. The alternate shall have all of the authority that the member would have when the alternate is attending in the place of the member. The board may appoint, from time to time, as it deems necessary, consultants who shall serve without pay but shall receive actual and necessary expenses as approved by the board.

(e) The term of membership on the board shall be for four years, with the State Architect's representative serving continually until replaced. Vacancies on the board shall be filled in the same manner as original appointments. The board shall annually select a chairperson from among the members of the board.

(Added by Stats.1975, c. 906, p.2007, §1. Amended by Stats.1977, c. 1001, p.3003, §1; Stats.1981, c. 598, p.2311, §5; Stats.1984, c. 1314, §5, operative July 1, 1985; Stats.1990, c. 625 (S.B. 2775), §9.)

§18961. Review, enforcement and administration of variances, appeals procedure; agency to consider alternative provisions of this part and obtain review

All state agencies which enforce and administer approvals, variances, or appeals procedures or decisions affecting the preservation or safety of the historical aspects of historical buildings shall use the alternative provisions of this part and shall consult with the State Historical Building Safety Board to obtain its review prior to undertaking action or making decisions on variances or appeals which affect historical buildings.

(Added by Stats.1982, c. 1358, §3. Amended by Stats.1984, c. 1314, §6, operative July 1, 1985; Stats.1990, c. 625 (S.B. 2775), §11.)

POLLING PLACES

Elections Code

- §225. Repealed by Stats.1994, c. 920 (S.B.1547), §1.**
- §226. Repealed by Stats.1994, c. 920 (S.B.1547), §1.**
- §227. Repealed by Stats.1994, c. 920 (S.B.1547), §1.**
- §228. Repealed by Stats.1994, c. 920 (S.B.1547), §1.**
- §1638.5. Repealed by Stats.1994, c. 920 (S.B.1547), §1.**
- §10010.2. Repealed by Stats.1994, c. 920 (S.B.1547), §1.**
- §14234. Repealed by Stats.1994, c. 920 (S.B.1547), §1.**

RECREATION

**A. Division 5. Chapter 1. California Recreation Trails
(Public Resources Code 5070.5, 5071, 5071.7, 5073.1, 5075.3.)**

**B. Division 5. Chapter 2.6. Public Playground Equipment
(Public Resources Code 5410, 5411.)**

C. Division 1. Chapter 2. Fish and Game Code 217.5.

A. CALIFORNIA RECREATION TRAILS

Public Resources Code

§5070	Citation of article
§5070.3	Definitions
§5070.5.	Declaration of policy
§5071.	Contents of plan
§5071.7.	Consultations; signs along heritage corridors; segments oriented to waterways; off-highway motor vehicle use; physically disabled persons
§5073.1.	Repealed by Stats 1990 ch 1495 (A.B. 4044) §3.
§5075.3.	Standards and criteria for trail routes and complementary facilities
§5077.8.	South Yuba Independence Trail South Yuba Project recognized as primary wheelchair wilderness and backpacking trail

§5070 Citation of article

This article shall be known and may be cited as the California Recreational Trails Act.

(Added by Stats.1974, c.1461, p.3192, §2 .)

§5070.3. Definitions

Unless the context otherwise requires, the following definitions shall govern construction of this article:

- (a) "Affirmative access area" means an area of already existing disability access improvements along a heritage corridor.
- (b) "Committee" means the California Recreational Trails Committee.
- (c) "Heritage corridor" means a regional, state, or nationwide alignment of historical, natural, or conservation education significance, with roads, state and other parks, greenways, or parallel recreational trails, intended to have guidebooks, signs, and other features to enable self-guiding tourism, and environmental conservation education along most of its length and of all or some of the facilities open to the public along its length, with an emphasis on facilities whose physical and interpretive accessibility meet "whole-access" goals.
- (d) "Heritage corridors access map" means a 1:500,000 publicly distributed map combining listings and locations of parks, trails, museums, and roadside historical and natural access points, including disability and interpretive access data, along designated heritage corridors.
- (e) "Plan" means the California Recreational Trails System Plan.
- (f) "System" means the California Recreational Trails System.
- (g) "Whole-access" means a general level of trail and human accessibility that includes not only

disabled persons but all others making up the "easy-access" majority of the public. This level of accessibility may also benefit from amplified concepts of natural terrain accessibility and cooperation with volunteer and nonprofit accessibility groups.

(Amended by Stats.1990, c.1495(A.B.4044), §1.)

§5070.5. Declaration of policy

The Legislature hereby declares that it is the policy of the state to:

(a) Increase accessibility and enhance the use, enjoyment, and understanding of California's scenic, natural, historic, and cultural resources.

(b) Encourage hiking, horseback riding, and bicycling as important contributions to the health and welfare of the state's population.

(c) Provide for the use of recreational trails by physically disabled persons, the elderly, and others in need of graduated trails with special safety features, particularly in conjunction with heritage corridors.

(d) Increase opportunities for recreational boating on designated waterways.

(e) Increase opportunities for use of recreational vehicles in designated areas and trail corridors pursuant to Chapter 1.25 (commencing with Section 5090.01.).

(f) Provide for the development and maintenance of a statewide system of recreational and interpretive trails, including heritage corridors.

(g) Increase the recreational and educational use of public roads by developing guides, maps, and other interpretive materials concerning significant historical, agricultural, scenic, and other resource areas.

(h) Encourage the development by cities, counties, districts, and private groups of recreational and interpretive trails, including heritage corridors.

(Added by Stats.1974, c. 1461, §2. Amended by Stats.1977, c. 946, §1, effective September 21, 1977; Stats.1979, c. 844, §2; Stats.1982, c. 994, §8.)

§5071. Contents of plan

The plan shall contain, but shall not be limited to, the following elements:

(a) Pedestrian trails.

- (b) Bikeways.
- (c) Equestrian trails.
- (d) Boating trails.
- (e) Trails and areas suitable for use by physically disabled persons, the elderly, and others in need of graduated trails, especially along designated heritage corridors.
- (f) Cross-country skiing trails.
- (g) Heritage corridors.

(Added by Stats.1974, c. 1461, §2. Amended by Stats.1977, c. 946, §2, effective September 21, 1977; Stats.1979, c. 844, §3; Stats.1982, c. 994, §9.)

§5071.7. Consultations; signs along heritage corridors; segments oriented to waterways; off-highway motor vehicle use; physically disabled persons

(a) (1) In planning the system, the director shall consult with and seek the assistance of the Department of Transportation. The Department of Transportation shall plan and design those trail routes that are in need of construction contiguous to state highways and serve both a transportation and a recreational need.

(2) The Department of Transportation shall install or supervise the installation of signs along heritage corridors consistent with the plan element developed pursuant to this section and Section 5073.1; provided, however, that it shall neither install nor supervise the installation of those signs until it determines that it has available to it adequate volunteers or funds, or a combination thereof, to install or supervise the installation of the signs, or until the Legislature appropriates sufficient funds for the installation or supervision of installation, whichever occurs first.

(b) The element of the plan relating to boating trails and other segments of the system which are oriented to waterways shall be prepared and maintained by the Department of Boating and Waterways pursuant to Article 2.6 (commencing with Section 68) of Chapter 2 of Division 1 of the Harbors and Navigation Code. Those segments shall be integrated with the California Protected Waterways Plan developed pursuant to Chapter 1273 of the Statutes of 1968, and shall be planned so as to be consistent with the preservation of rivers of the California Wild and Scenic Rivers System, as provided in Chapter 1.4 (commencing with Section 5093.50) of this division.

(c) Any element of the plan relating to trails and areas for the use of off/highway motor vehicles shall be prepared and maintained by the Division of Off/Highway Motor Vehicle Recreation pursuant to Chapter 1.25 (commencing with Section 5090.01).

(d) In planning the system, the director shall consult with and seek the assistance of the Department of Rehabilitation, representatives of its California Access Network volunteers, and nonprofit disability access groups to assure that adequate provision is made for publicizing the potential use

of recreational trails, including heritage corridors physically disabled persons.

(Added by Stats.1974, c. 1461, §2. Amended by Stats.1977, c. 946, §3, effective September 21, 1977; Stats.1978, c. 365, §15; Stats.1979, c. 844, §4; Stats.1980, c. 595, §1; Stats.1982, c. 994, §10; Stats.1990, c. 1495 (A.B. 4044), §2.)

§5073.1. Repealed by Stats 1990 ch 1495 (A.B. 4044) §3.

§5075.3. Standards and criteria for trail routes and complementary facilities

In specifying criteria and standards for the design and construction of trail routes and complementary facilities as provided in subdivisions (b) and (c) of Section 5071.3, the director shall include the following:

(a) The following routes shall be given priority in the allocation of funds:

(1) Routes which are in proximity or accessible to major urban areas of the state.

(2) Routes which are located on lands in public ownership.

(3) Routes which provide linkage or access to natural, scenic, historic, or recreational areas of clear statewide significance.

(4) Routes which are, or may be, the subject of agreements providing for participation of other public agencies, cooperating volunteer trail associations, or any combination of those entities, in state trail acquisition, development, or maintenance.

(b) Where feasible, trail uses may be combined on routes within the system; however, where trail use by motor vehicles is incompatible with other trail uses, separate areas and facilities should be provided.

(c) Trails should be located and managed so as to restrict trail users to established routes and to aid in effective law enforcement.

(d) Trails should be located so as to avoid severance of private property and to minimize impact on adjacent landowners and operations. The location of any trail authorized by this article shall, if the property owner so requests, be placed as nearly as physically practicable to the boundary lines of the property traversed by the trail, as such boundary lines existed as of January 1, 1975.

(e) Insofar as possible, trails should be designed and maintained to harmonize with, and complement, established forest, agricultural, and resource management plans. No trail, or property acquisition therefor, shall interfere with a landowner's water rights or his right to access to the place

of exercise of such water rights.

(f) Trails should be planned as a system and each trail segment should be part of the overall system plan.

(g) Trails should be appropriately signed to provide identification, direction, and information.

(h) Rest areas, shelters, sanitary facilities, or other conveniences should be designed and located to meet the needs of trail users, including physically handicapped persons, and to prevent intrusion into surrounding areas.

(i) The department shall erect fences along any trail when requested to do so by the owner of adjacent land, or with the consent of the owner of such land when the department determines it will be in the best interests of the users of the trail and adjoining property owners, and shall place gates in such fences when necessary to afford proper access and at each point of intersection with existing roads, trails, or at used points of access to or across such trail. The department shall maintain such fences and gates in good condition.

(j) A landowner's right to conduct agricultural, timber harvesting, or mining activities on private lands adjacent to, or in the vicinity of, a trail shall not be restricted because of the presence of the trail.

(Added by Stats.1974, c. 1461, p. 3192, §2. Amended by Stats.1975, c.945, p.2114, §1; Stats.1977, c. 946, p.2883, §4, eff. Sept. 21, 1977; Stats. 1982, c. 903, p.3333, §3, eff. Sept. 13, 1982.)

§5077.2. Priority routes for heritage corridor designation

In addition to utilizing criteria and standards for the design, interpretation, and implementation of heritage corridor routes and complementary facilities, as provided in subdivisions (b) and (c) of Section 5071.3 and paragraphs (1), (2), (3), and (4) of subdivision (a) of Section 5075.3, the director shall include in the plan required by Section 5070.7 the following routes which shall be given priority for designation as heritage corridors:

(a) Routes which connect urban areas with the cross-section of landscape provided in parks and recreation and outdoor resource areas in California.

(b) Routes incorporating existing and planned facilities for ready accessibility for physically disabled persons utilizing coordinated accessibility to several areas and experiences such as trails, water, visitor centers, campsites, parking, and rest rooms.

(c) Existing and planned scenic highways.

(d) Looping routes radiating out of centers of population to allow optimum use.

- (e) Routes nominated by local governmental jurisdictions and local volunteer groups.
- (f) Routes providing access to the maximum number of recreational trails and other recreational facilities.
- (g) Routes intended to direct the public away from areas where trespass or damage to public or private property or natural resources is likely.
(Added by Stats. 1979, c. 844, p. 2937, §7.)

§5077.8 South Yuba Independence Trail South Yuba Project recognized as primary wheelchair wilderness and backpacking trail

In order to promote disability access along the heritage corridors, the director shall recognize the South Yuba Independence Trail South Yuba Project as one of California's primary wheelchair wilderness and backpacking trails.

(Added by Stats. 1990, c. 1495(A.B. 4044), §6.)

B. PUBLIC PLAYGROUND EQUIPMENT

Public Resources Code

§5410. Legislative findings and declarations

The Legislature hereby finds and declares that playground equipment accessible to and usable by all persons regardless of physical condition is becoming increasingly available. The Legislature further finds and declares that it is a matter of statewide interest and concern that all public agencies providing playgrounds utilize such facilities to the maximum extent possible, and, where feasible, provide playground equipment usable by both able-bodied and physically disabled persons so as to integrate able-bodied and physically disabled persons within such playgrounds.

(Added by Stats. 1978, c. 1006, §1.)

§5411. Purchase of equipment usable by physically handicapped persons

All public agencies operating playgrounds, including state agencies, cities, counties, a city and county, school districts and other districts, shall, with respect to new playground equipment purchased on or after January 1, 1979, provide that a portion of the equipment within the playground is accessible and usable by all persons regardless of their physical condition whenever such equipment is available at a quality and cost which is comparable to the quality and cost of standard equipment.

(Added by Stats.1978, c. 1006, §1.)

C. FISH AND GAME CODE §217.5.

§217.5. Sport fishing areas accessible to disabled persons; notation in booklet of regulations

(a) The department shall identify property it owns or manages that includes areas for sport fishing which are accessible to disabled persons.

(b) Commencing with the booklet of sport fishing regulations published by the commission in 1986, the availability of sport fishing areas, identified by the department as accessible to disabled persons under subdivision (a), shall be noted in the booklet of regulations, together with telephone numbers and instructions for obtaining a list of those areas from regional department offices.

(Added by Stats.1984, c. 1148, §1)

MEETINGS

Government Code

§54950. Declaration, intent; sovereignty

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

(Added by Stats.1953, c.1588, p.3270, §1.)

§54950.5. Short Title

This chapter shall be known as the Ralph M. Brown Act.

(Added by Stats.1961, c.115, p.1127, §1.)

§54951. Local agency, definition

As used in this chapter, "local agency" means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

(Added by Stats.1953, c.1588, p.3270, §1. Amended by Stats.1959, c.1417, p.3696, §1.)

§54951.1. Repealed by Stats.1993, c.1138 (S.B.1140), §2.3, operative April 1, 1994.

§54951.7. Repealed by Stats.1993, c.1138 (S.B.1140), §2.5, operative April 1, 1994.

§54952. Legislative body, definition

As used in this chapter, "legislative body" means:

(a) The governing body of a local agency or any other local body created by state or federal statute.

(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body which are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

(c)(1) A board, commission, committee, or other multimember body that governs a private corporation or entity that either:

(A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation or entity.

(B) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.

(2) Notwithstanding subparagraph (B) of paragraph (1), no board, commission, committee, or other multimember body that governs a private corporation or entity that receives funds from a local agency and, as of February 9, 1996, has a member of the legislative body of the local agency as a full voting member of the governing body of that private corporation or entity shall be relieved from the public meeting requirements of this chapter by virtue of a change in status of the full voting member to a nonvoting member.

(d) The lessee of any hospital the whole or part of which is first leased pursuant to subdivision (p) of Section 32121 of the Health and Safety Code after January 1, 1994, where the lessee exercises any material authority of a legislative body of a local agency delegated to it by that legislative body whether the lessee is organized and operated by the local agency or by a delegated authority.

(Added by Stats.1953, c.1588, p.3270, §1. Amended by Stats.1961, c.1671, p.3637, §1; Stats.1993, c.1138 (S.B.1140), §3, operative April 1, 1994; Stats.1996, c. 1134 (S.B.1504), §1.)

§54952.1. Member of a legislative body of a local agency; conduct

Any person elected to serve as a member of a legislative body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this chapter and shall be treated for purposes of enforcement of this chapter as if he or she has already assumed office.

(Added by Stats.1993, c.1137 (S.B.36), §1, operative April 1, 1994. Amended by Stats.1994, c.32 (S.B.752), §2, eff. March 30, 1994, operative April 1, 1994.)

§54952.2. Meeting; prohibited devices for obtaining collective concurrence; exclusions from chapter

(a) As used in this chapter, "meeting" includes any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.

(b) Except as authorized pursuant to Section 54953, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body is prohibited.

(c) Nothing in this section shall impose the requirements of this chapter upon any of the following:
(1) Individual contacts or conversations between a member of a legislative body and any other person.

(2) The attendance of a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the local agency. Nothing in this paragraph is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(4) The attendance of a majority of the members of a legislative body at an open and noticed meeting of another body of the local agency, or at an open and noticed meeting of a legislative body of another local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(5) The attendance of a majority of the members of a legislative body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(6) The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

(Added by Stats.1993, c.1137 (S.B.36), §2, operative April 1, 1994. Amended by Stats.1994, c.32 (S.B.752), §3, effective March 30, 1994, operative April 1, 1994; Amended by Stats.1997, c.253 (S.B.138), §1.)

§54952.3. Repealed by Stats.1993, c.1138 (S.B.1140), §5, operative April 1, 1994.

§54952.5. Repealed by Stats.1993, c.1138 (S.B.1140), §6, operative April 1, 1994.

§54952.6. Action taken, definition

As used in this chapter, "action taken" means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body of entity, upon a motion, proposal, resolution, order or ordinance.

(Added by Stats.1961, c.1671, p.3637, §3.)

§54952.7. Copies of chapter to members of legislative body of local agencies

A legislative body of a local agency may require that a copy of this chapter be given to each member of the legislative body and any person elected to serve as a member of the legislative body who has not assumed the duties of office. An elected legislative body of a local agency may require that a copy of this chapter be given to each member of each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body.

(Added by Stats.1980, c.1284, p.4341, §17. Amended by Stats.1981, c.968, §27; Stats.1993, c.1136 (A.B.1426), §3, operative April 1, 1994; Stats.1993, c.1137 (S.B.36), §3, operative April 1, 1994; Stats.1993, c.1138 (S.B.1140), §7, operative April 1, 1994.)

§54953. Meetings to be open and public; attendance; video teleconferencing

(a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing,, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, " teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public

with additional teleconference locations.

(c) No legislative body shall take action by secret ballot, whether preliminary or final.
(Added by Stats.1953, c.1588, p.3270, §1. Amended by Stats.1988, c.399, §1; Stats.1993, c.1136(A.B.1426), §4, operative April 1, 1994; Stats.1993, c.1137 (S.B.36), §4, operative April 1, 1994; Stats.1994, c.32(S.B.752), §4, eff. March 30, 1994, operative April 1, 1994; Amended by Stats.1997, c.253 (S.B.138), §2; Stats.1998, c.260 (S.B.139), §1.)

Section 54953, added by Stats.1988, c. 399, §2, relating to meetings of the legislative body of a local agency being open and public, was repealed by Stats.1999, c.83 (S.B.966), §84.

§54953.1. Testimony of members before grand jury

The provisions of this chapter shall not be construed to prohibit the members of the legislative body of a local agency from giving testimony in private before a grand jury, either as individuals or as a body.

(Added by Stats.1979, c.950, p. 3277, §1.)

§54953.3. Conditions to attendance

A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance. If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

(Added by Stats.1957, c.85, p. 664, §1. Amended by Stats.1981, c.968, §28.)

§54953.5. Right to record proceedings; conditions; tape or film records made by or under direction of local agencies

(a) Any person attending an open and public meeting of a legislative body of a local agency shall have the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding by the legislative body of the local agency that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency shall be subject to inspection pursuant to the California Public Records

Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but, notwithstanding Section 34090, may be erased or destroyed 30 days after the taping or recording. Any inspection of a video or tape recording shall be provided without charge on a video or tape player made available by the local agency.

(Added by Stats.1980, c.1284, p.4341, §18. Amended by Stats.1993, c. 1136 (A.B.1426), §5, operative April 1, 1994; Stats.1993, c. 1137 (S.B.36), §5, operative April 1, 1994; Stats.1994, c.32 (S.B. 752), §5, eff. March 30, 1994, operative April 1, 1994.)

§54953.6. Prohibitions or restrictions on broadcasts of proceedings of legislative body; reasonable findings

No legislative body of a local agency shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

(Added by Stats.1993, c. 1136 (A.B.1426), §6, operative April 1, 1994; Stats.1993, c. 1137 (S.B.36), §6, operative April 1, 1994. Amended by Stats.1994, c.32 (S.B.752), §6, eff. March 30, 1994, operative April 1, 1994.)

§54953.7. Allowance of greater access to meetings than minimal standards in this chapter

Notwithstanding any other provision of law, legislative bodies of local agencies may impose requirements upon themselves which allow greater access to their meetings than prescribed by the minimal standards set forth in this chapter. In addition thereto, an elected legislative body of a local agency may impose such requirements on those appointed legislative bodies of the local agency of which all or a majority of the members are appointed by or under the authority of the elected legislative body.

(Added by Stats.1981, c. 968, §29.)

§54954. Time and place of regular meetings; special meetings; emergencies

(a) Each legislative body of a local agency, except for advisory committees or standing committees shall provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings. Meetings of advisory committees or standing committees, for which an agenda is posted at least 72 hours in advance of the meeting pursuant to subdivision (a) of Section 54954.2, shall be considered for purposes of this chapter as regular meetings of the legislative body.

(b) Regular and special meetings of the legislative body shall be held within the boundaries of the territory over which the local agency exercises jurisdiction, except to do any of the following:

(1) Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the local agency is a party.

(2) Inspect real or personal property which cannot be conveniently brought within the boundaries of the territory over which the local agency exercises jurisdiction provided that the topic of the meeting is limited to items directly related to the real or personal property.

(3) Participate in meetings or discussions of multiagency significance that are outside the boundaries of a local agency's jurisdiction. However, any meeting or discussion held pursuant to this subdivision shall take place within the jurisdiction of one of the participating local agencies and be noticed by all participating agencies as provided for in this chapter.

(4) Meet in the closest meeting facility if the local agency has no meeting facility within the boundaries of the territory over which the local agency exercises jurisdiction, or at the principal office of the local agency if that office is located outside the territory over which the agency exercises jurisdiction.

(5) Meet outside their immediate jurisdiction with elected or appointed officials of the United States

or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.

(6) Meet outside their immediate jurisdiction if the meeting takes place in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility.

(7) Visit the office of the local agency's legal counsel for a closed session on pending litigation held pursuant to Section 54956.9, when to do so would reduce legal fees or costs.

(c) Meetings of the governing board of a school district shall be held within the district except under the circumstances enumerated in subdivision (b), or to do any of the following:

(1) Attend a conference on nonadversarial collective bargaining techniques.

(2) Interview members of the public residing in another district with reference to the trustees' potential employment of the superintendent of that district.

(3) Interview a potential employee from another district.

(d) Meetings of a joint powers authority shall occur within the territory of at least one of its member agencies, or as provided in subdivision (b). However, a joint powers authority which has members throughout the state may meet at any facility in the state which complies with the requirements of Section 54961.

(e) If, by reason of fire, flood, earthquake, or other emergency, it shall be unsafe to meet in the place designated, the meetings shall be held for the duration of the emergency at the place designated by the presiding officer of the legislative body or his or her designee in a notice to the local media that have requested notice pursuant to Section 54956, by the most rapid means of communication available at the time.

(Added by Stats.1953, c.1588, p.3270, §1. Amended by Stats.1993, c.1136(A.B.1426), §7, operative April 1, 1994; Stats.1993, c.1137 (S.B.36), §7, operative April 1, 1994; Stats.1994, c.32 (S.B.752), §7, eff. March 30, 1994, operative April 1, 1994; Amended by Stats.1997, c.253 (S.B.138), §3; Stats.1998, c.260(S.B.139), §2.)

§54954.1. Mailed notice to persons who filed written request; time; duration and renewal of requests; fee

Any person may request that a copy of the agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. Upon receipt of the written request, the legislative body or its designee shall cause the requested materials to be mailed at the time the agenda is posted pursuant to Section 54954.2 and 54956 or upon distribution to all, or a majority of all, of the members of a legislative body, whichever occurs first. Any request for mailed copies of agendas or agenda packets shall be valid for the calendar year in which it is filed, and must be renewed following January 1 of each year. The legislative body may establish a fee for mailing the agenda or agenda packet, which fee shall not exceed the cost of providing the service. Failure of the requesting person to receive the agenda or agenda packet pursuant to this section shall not constitute grounds for invalidation of the actions of the legislative body taken at the meeting for which the agenda or agenda packet was not received.

(Added by Stats.1973, c.1070, p.2151, §1. Amended by Stats.1990, c. 1198 (A.B. 4065), §1; Amended by Stats.1997, c.253 (S.B.138), §4.)

54954.2. Agenda; posting; action on other matters

(a) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.

No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(Added by Stats.1986, c. 641, §5. Amended by Stats.1993, c.1136(A.B.1426), §8, operative April 1, 1994; Stats.1993, c.1137 (S.B.36), §8, operative April 1, 1994; Stats.1994, c.32 (S.B.752), §8, eff. March 30, 1994, operative April 1, 1994; Am/ended by Stats.1997, c.253 (S.B.138), §5.)

§54954.3 Opportunity for public to address legislative body; adoption of regulations; public criticism of policies

(a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.

(b) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

(c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that

otherwise provided by law.

(Added by Stats.1986, c. 641, §6. Amended by Stats. 1991, c. 66 (S.B.100), §1; Stats.1993, c. 1136 (A.B.1426), §9, operative April 1, 1994; Stats. 1993, c. 1137 (S.B. 36), §9, operative April 1, 1994; Stats. 1994, c. 32 (S.B. 752), §9, eff. March 30, 1994, operative April 1, 1994.)

§54959. Penalty for unlawful meeting

Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.

(Added by Stats.1961, c.1671, p.3638, §5. Amended by Stats.1993, c.1136(A.B.1426), §16, operative April 1, 1994; Stats.1993, c.1137 (S.B.36), §16, operative April 1, 1994; Stats.1994, c.32(S.B.752), §18, eff. March 30, 1994, operative April 1, 1994.)

§54961. Meetings prohibited in facilities; grounds; identity of victims of tortious sexual conduct or child abuse

(a) No legislative body of a local agency shall conduct any meeting in any facility the prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every local agency as defined in Section 54951.

(b) No notice, agenda, announcement, or report required under this chapter need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

(Added by Stats.1970, c.383, p.798, §2. Amended by Stats.1981, c. 968, §36; Stats.1993, c.1136 (A.B.1426), §19, operative April 1, 1994; Stats.1993, c.1137(S.B.36), §19, operative April 1, 1994; Stats.1993, c.1138 (S.B.1140), §9, operative April 1, 1994; Stats.1994, c.32 (S.B.752), §21, eff. March 30, 1994, operative April 1, 1994.)

§54962 Closed session by legislative body prohibited

Except as expressly authorized by this chapter, or by Sections 1461, 1462, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code as they apply to hospitals, or by any provision of the Education Code pertaining to school districts and community college districts, no closed session may be held by any legislative body of any local agency.

(Added by Stats. 1987, c. 1320, §6. Amended by Stats. 1988, c. 1346, §1, eff. Sept. 26, 1988; Stats. 1993, c. 1136 (A.B. 1426), §20, operative April 1, 1994; Stats. 1993, c. 1137 (S.B. 36), §20, operative April 1, 1994; Stats. 1993, c. 1138 (S.B. 1140), §10, operative April 1, 1994; Stats. 1994, c. 32 (S.B. 752), §22, eff. March 30 1994, operative April 1, 1994; Stats. 1995, c. 529 (S.B. 614), §6, eff. Oct. 4, 1995.)

RULEMAKING

Health and Safety Code

PART 2.5. STATE BUILDING STANDARDS

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

§18901-18902 Article 1. Title

§18903 Repealed

§18904 Repealed

§18905-18919 Article 2. Definitions

CHAPTER 2. ORGANIZATION

§18920-18924 Article 1. The California Building Standards Commission

§18925 Article 2. The Executive Director of the State Building
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§18926-18929.1 Article 3. The Coordinating Council and Advisory Panels

CHAPTER 3. POWERS OF THE COMMISSION

CHAPTER 4. THE CALIFORNIA BUILDING STANDARDS CODE

CHAPTER 5. APPEALS AND ENFORCEMENT

CHAPTER 6. REGULATIONS

CHAPTER 7. CONSTRUCTION INSPECTORS, PLANS EXAMINERS, AND BUILDING OFFICIALS

§18901. Short title

(a) This part shall be known and may be cited as the California Building Standards Law.

(b) The California Building Standards Commission shall continue within the State and Consumer Services Agency.

(Amended by Stats. 1997, c.580(S.B. 320), §5.)

§18902. State Building Standards Code; Title 24 of California Administrative Code; references

All references to the State Building Standards Code, Title 24 of the California Administrative Code shall mean the California Building Standards Code.

(Amended by Stats. 1992, c.897 (A.B.3515), § 1.)

§18903. Repealed by Stats.1979, c.1152, p.4292, §162

§18904. Repealed by Stats.1979, c.1152, p.4292, §162

§18905. Construction

Unless the context otherwise requires, the definitions contained in this article shall govern the construction of this part.

(Added by Stats.1979, c. 1152, p. 4292, § 163.)

§18905.5. Adopting agency

"Adopting agency" means a state agency responsible for the adoption of building standards.

(Amended by Stats. 1992, c. 897 (A.B. 3515, §2.)

§18906. Adoption or adopt

"Adoption" or "adopt" means, with respect to the procedure for promulgation of a building standard, the final act of a state agency that has the legislative authority and responsibility to take proposed building standards to public hearing.

(Amended by Stats. 1992, c. 897 (A.B.3515), § 3.)

§18907. Approval

"Approval" means, with respect to the procedure for promulgation of a building standard, the action of approval by the California Building Standards Commission. Until there is approval of the standard by the commission, it shall be a proposed building standard or regulation.

(Amended by Stats. 1992, c. 897, (A.B.3515), § 4.)

§18908. Building; structure

(a) "Building" means any structure used for support or shelter of any use or occupancy. "Structure" means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built or composed of parts joined together in some definite manner, except any mobilehome as defined in Section 18008, manufactured home, as defined in Section 18007, special purpose commercial coach, as defined in Section 18012.5, and recreational vehicle, as defined in Section 18010.

(b) "Building" includes a structure wherein things may be grown, made, produced, kept, handled, stored, or disposed of.

(c) All appendages, accessories, apparatus, appliances, and equipment installed as a part of building or structure shall be deemed to be a part thereof.

(d) "Building" does not include machinery, equipment, or appliances installed for manufacture or process purposes only, any construction installations which are not a part of a building, or any tunnel, mine shaft, highway, or bridge.

(Added by Stats.1979, c.1152, p. 4292, §163. Amended by Stats.1987, c.1053, § 3.)

§18909. Building standard

(a) "Building standard" means any rule, regulation, order, or other requirement, including any amendment or repeal of that requirement, which specifically regulates, requires, or forbids the method of use, properties, performance, or types of materials used in the construction, alteration, improvement, repair, or rehabilitation of a building, structure, factory-built housing, or other improvement to real property, including fixtures therein, and as determined by the commission.

(b) Except as provided in subdivision (d), "building standard" includes architectural and design functions of a building or structure, including, but not limited to, number and location of doors, windows, and other openings, stress or loading characteristics of materials, and methods of fabrication, clearances, and other functions.

(c) "Building standard" includes a regulation or rule relating to the implementation or enforcement of a building standard not otherwise governed by statute, but does not include the adoption of procedural ordinances by a city or other public agency relating to civil, administrative, or criminal procedures and remedies available for enforcing code violations.

(d) "Building standard" does not include any safety regulations which any state agency is authorized to adopt relating to the operation of machinery and equipment used in manufacturing, processing, or fabricating, including, but not limited to, warehousing and food processing operations, but not including safety regulations relating to permanent appendages, accessories, apparatus, appliances, and equipment attached to the building as a part thereof, as determined by the commission.

(e) "Building standard" does not include temporary scaffoldings and similar temporary safety devices and procedures, which are used in the erection, demolition, moving, or alteration of buildings.

(f) "Building standard" does not include any regulation relating to the internal management of a state agency.

(g) "Building standard" does not include any regulation, rule, order, or standard which pertains to mobilehomes, manufactured homes, commercial coaches, special purpose commercial coaches, or recreational vehicles.

(h) "Building standard" does not include any regulation, rule, or order or standard which pertains to a mobile home park, recreational vehicle park, temporary recreational vehicle park, or travel trailer park, except that "building standard" includes the construction of permanent buildings and plumbing, electrical, and fuel gas equipment and installations within permanent buildings in mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, or travel trailer parks. For purposes of this subdivision, "permanent building" means any permanent structure constructed in the mobilehome park, recreational vehicle park, temporary recreational vehicle park, or travel trailer park which is a permanent facility under the control and ownership of the park operator.

(i) "Building standard" does not include any regulation, rule, order, or standard which pertains to mausoleums regulated under Part 5 (commencing with Section 9501) of Division 8.

(j) "Building standard" does not include any regulation adopted by the California Integrated Waste Management Board, the Department of Toxic Substances Control, or the State Water Resources Control Board concerning the discharge of waste to land or the treatment, transfer, storage, resource recovery, disposal, or recycling of the waste.

(Amended by Stats.1992, c.897(A.B.3515), §5; Stats. 1993, c.663(A.B.54), §2.)

§18910. Code

"Code" means the California Building Standards Code, including the triennial editions and supplements.

(Amended by Stats.1992, c.897 (A.B.3515), §6.)

§18911. Codification; codify

"Codification" or "codify" means to arrange building standards in the publication format of the code as determined by the commission.

(Amended by Stats.1992, c. 897 (A.B. 3515), §7.)

§18912. Commission

"Commission" means the California Building Standards Commission.

(Amended by Stats.1992, c. 897 (A.B.3515), §8.)

§18913. Emergency standard

"Emergency standard" means either of the following:

- (a) A building standard or an order of repeal of a building standard filed for publication in the code by the commission pursuant to Section 11346.1 of the Government Code.
- (b) A building standard adopted by the Occupational Safety and Health Standards Board which is at least as effective as a federal standard promulgated under Section 6 of the federal Occupational Safety and Health Act of 1970 (Public Law 91-596).

(Amended by Stats.1992, c. 897 (A.B.3515), § 9.)

§18914. Executive Director

"Executive director" means the Executive Director of the California Building Standards Commission.

(Amended by Stats.1992, c. 897 (A.B.3515), §10.)

§18915. Local Agency

"Local agency" means a city, county, and city and county, whether general law or chartered, district agency, authority, board, bureau, department, commission, or other governmental entity of less than statewide jurisdiction. Local agency includes any entity of regional jurisdiction. Local agency does not include an agency of the federal government.

(Added by Stats.1979, c. 1152, p. 4292, §163.)

§18916. Model code

"Model code" means any building code drafted by private organizations or otherwise, and shall include, but not be limited to, the latest edition of the following:

- (a) The Uniform Building Code of the International Conference of Building Officials.
- (b) The Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials.
- (c) The Uniform Mechanical Code of the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials.
- (d) The National Electrical Code of the National Fire Protection Association.

(e) The Uniform Fire Code of the International Conference of Building Officials and the Western Fire Chiefs Association, Inc.

(f) Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials.

(Added by Stats. 1979, c. 1152, p. 4292, §163. Amended by Stats. 1987, c. 1053, §8; Stats. 1989, c. 1360, §94; Stats. 1989, c. 952, § 2; Stats. 1991, c. 173 (A.B. 204), § 2.)

§18917. Occupancy

"Occupancy" means the purpose for which a building, structure, or other improvement to property, or a part thereof, is used or intended to be used.

(Added by Stats. 1979, c. 1152, p. 4292, §163.)

§18917.2. Propose

"Propose" refers, with respect to the procedure for promulgation of a building standard, to the state agency that has the legislative authority and responsibility to write proposed building standards.

(Added by Stats. 1992, c. 897 (A.B. 3515), § 10.5.)

§18917.3. Publication; publish

"Publication" or "publish" means to print and make available to the public the California Building Standards Code or administrative regulations that apply directly to the implementation or enforcement of building standards.

(Added by Stats. 1979, c. 1152, p. 4292, §163. Amended by Stats. 1987, c. 1053, §9; Stats. 1988, c. 1194, §8, operative Jan. 1, 1989.)

§18917.5. Secretary

"Secretary" means the Secretary of the State and Consumer Services Agency.

(Added by Stats. 1979, c. 1152, p. 4292, §163.)

§18918. State agency

"State agency" means a state agency as defined in Section 11000 of the Government Code.

(Added by Stats. 1979, c. 1152, p. 4292, §163. Amended by Stats. 1987, c. 1053, §10.)

§18919. Regulation

"Regulation" means any rule, regulation, ordinance, or order promulgated by a state or local agency, including rules, regulations, or orders relating to occupancy or the use of land. "Regulation" includes building standards.

(Added by Stats.1979, c.1152, p. 4292, §163.)

§18920. Existence; composition

There is continued in existence in the State and Consumer Services Agency a California Building Standards Commission consisting of the Secretary of State and Consumer Services Agency, and 10 members appointed by the Governor subject to confirmation by the Senate.

(Added by Stats.1979, c.1152, p. 4292, §163. Amended by Stats.1987, c.1053, §10.5)

§18921. Appointed members

(a) The appointed members of the commission shall be selected from, and represent the public, design professions, the building and construction industry, local government building officials, fire and safety officials, and labor in accordance with the following:

(b) Four members shall be appointed from among the professions and industries concerned with building construction as follows:

(1) An architect.

(2) A mechanical or electrical engineer or fire protection engineer.

(3) A structural engineer.

(4) A licensed contractor.

(c) Three members shall be appointed from among the general public at least one of whom shall be a physically handicapped person.

(d) One member shall be appointed from organized labor in the building trades.

(e) One member shall be appointed who is a local building official.

(f) One member shall be appointed who is a local fire official.

(g) At least one member of the commission shall be experienced and knowledgeable in barrier free

architecture and aware of, and sensitive to, the requirements necessary to ensure public buildings are accessible to, and usable by, the physically handicapped.

(h) At least one member of the commission shall be experienced and knowledgeable in building energy efficiency standards.

As used in this section, "physically handicapped" means persons who have permanent mobility impairments which affect ambulation due to cerebral palsy, poliomyelitis, spinal cord injury, amputation, and other conditions or diseases which reduce mobility or require the use of crutches, canes, or wheelchairs.

(Added by Stats.1979, c.1152, p. 4292, §163. Amended by Stats. 1980, c. 1064, p. 3408, §1; Stats.1987, c. 1053, §11; Stats. 1988, c. 1194, §8.5, operative Jan. 1, 1989; Stats. 1991, c. 865 (A.B.47), §19.)

§18922. Chair; vice chair

The Secretary of the State and Consumer Services Agency or the secretary's representative shall serve as the chair of the commission. The commission shall elect a vice chair annually from among its members.

(Amended by Stats.1997, c.580(S.B.320), §6.)

§18923. Term of office

(a) The term of office of members of the commission shall be four years and they shall hold office until the appointment and qualification of their successors, not to exceed 180 days after the term is expired.

(b) The term of members of the commission shall be staggered based on the following cycle:

(1) The terms of two members shall expire on January 1, 1981.

(2) The terms of three members shall expire on January, 1, 1982.

(3) The terms of two members shall expire on January 1, 1983.

(4) The terms of three members shall expire on January 1, 1984.

(c) Prior members of the commission may be reappointed.

(d) In the event of a vacancy prior to the expiration of a term, an appointment shall be made to fill the balance of the unexpired term.

(Added by Stats.1979, c.1152, p.4292, §163. Amended by Stats.1987, c.1053, §12; Amended by Stats.1997, c.580 (S.B. 320), §7. Amended by Stats.1997, c.580(S.B.320), §7.)

§18924. Compensation; travel expenses

The members of the commission shall serve without compensation. Members of the commission who are not state officers shall be paid their actual necessary travel expenses.

(Added by Stats.1979, c.1152, p.4292, §163.)

§18925. Executive Director

The commission shall appoint an Executive Director of the California Building Standards Commission, who shall hold office at the pleasure of the commission. The executive director shall make public the processes of the commission. The executive director shall appoint, in accordance with civil service and other provisions of law, officers and employees necessary to carry out the intent and purposes of this part.

(Added by Stats.1979, c.1152, p.4292, §163. Amended by Stats.1984, c.677, §4; Amended by Stats.1992, c. 897 (A.B.3515), §13.)

§18926. Coordinating Council; existence; membership; duties

(a) There is, in the office of the executive director, a coordinating council. The membership of the council shall consist of the executive director, who shall serve as chairperson, and representatives appointed by the State Director of Health Services, the Director of the Office of Statewide Health Planning and Development, the Director of Housing and Community Development, the Director of Industrial Relations, the State Fire Marshal, the Executive Director of the State Energy Resources Conservation and Development Commission, and the Director of General Services.

(b) Subject to the pleasure of the commission:

(1) The council or any member of the council shall, when called and directed in writing by the executive director, work with and assist an agency proposing building standards or adopting building standards, or both, in the development of proposals for building standards.

(2) When a state agency contemplates the adoption of any building standard, it shall, prior to commencing any action to prepare a draft of the proposal, advise the executive director, in writing, of that intent and request the executive director to call the council, or any member of the council, as appropriate, for assistance.

(3) Whenever the commission returns for amendment, or rejects any proposed building standard, and one of the reasons for that action is that approval of the proposal would create a conflict with

existing building standards of other adopting agencies, the executive director shall call the council or any member of the council, as appropriate, to assist in the elimination of the conflict.

(4) The council shall draft proposed building standards which the commission is authorized to adopt pursuant to Section 18933 for the consideration of the commission and approval, utilizing the criteria of Section 18930.

(Added by Stats.1979, c.1152, p.4292, §163. Amended by Stats.1981, c.817, p.3165, §3; Stats.1984, c.677, §5; Stats.1988, c.1194, §9, operative Jan. 1, 1989; Amended by Stats.1992, c. 897(A.B. 3515), § 14.)

§18927. Advisory panels; qualifications of persons appointed; compensation.

The commission may appoint from the design professions, the building and construction industry, the affected general public, and interested governmental agencies, appropriate advisory panels to advise the commission and its staff with respect to building standards. The persons appointed to the panels shall be specifically knowledgeable and qualified in the type of work embraced by the building standards in question. These persons shall serve without compensation, but may receive actual necessary travel expenses.

(Added by Stats.1979, c.1152, p. 4292, §163. Amended by Stats.1987, c.1053, §13; Stats. 1988, c.1194, §10, operative Jan. 1, 1989; Amended by Stats.1992, c.897 (A.B.3515), §15.)

§18928. Model code, national standard, or specification; adoption of and reference to most recent addition; date of publication; committee

(a) Each state agency adopting or proposing adoption of a model code, national standard, or specification shall reference the most recent edition of applicable model codes, national standards, or specifications.

(b) Each state agency adopting or proposing adoption of a model code, national standard, or specification shall adopt or propose adoption of the most recent editions of the model codes, as amended or proposed to be amended by the adopting agency, within one year after the date of publication of the model codes, national standards, or specifications. The "date of publication of a model code, national standard, or specification" is either of the following:

(1) The date of publication printed in the model code, national standard, or specification. If only a month and year are shown by the model code, national standard, or specification adopting agency or body, the date of publication shall be considered to be the last day of the month shown.

(2) The date determined by the commission, if no publication date is shown in the model code, national standard, or specification. The commission shall notify all adopting agencies of its

determination within 15 days.

(c) If the adopting agencies fail to comply with subdivision (b), the commission shall convene a committee to recommend to the commission the adoption, amendment, or repeal, on the agencies' behalf, of the most recent editions of the model codes, national standards, or specifications and necessary state standards.

(Added by Stats.1985, c.623, §1. Amended by Stats.1987, c.1053, §14; Stats.1988, c. 1194, §10.5, operative Jan. 1, 1989; Amended by Stats.1997, c.645 (A.B. 1071), §13.)

§18928.1. Building standards; incorporatin of model codes, applicable national specifications or published standards; publication agreement

Building standards adopted or approved by the commission shall incorporate the text of the model codes, applicable national specifications, or published standards, in whole or in part, only by reference, with appropriate additions or deletions therefrom. The commission may elect to adopt or approve standards which incorporate, in whole or in part, the text of these publications, with changes therein, or deletions therefrom, directly incorporated into the text of the California Building Standards Code, but no textual material contained in any of the model codes, as enumerated in Section 18916, may be included in the California Building Standards Code by means other than incorporation by reference, unless the commission and the governing body of the organization that publishes the model codes first reach a written agreement concerning the terms and conditions of the publication, including, but not limited to, whether the publication will be by the commission or the model code organization, or both. The model code governing body may not withhold any publication agreement on the basis of the substantive provisions contained in the California Building Standards Code.

(Added by Stats.1992, c.897 (A.B.3515), §16.)

§18929. Adoption of administrative regulations applying to implementation or enforcement of building standards; publication; certain Housing and Community Development

(a) Except as otherwise provided in subdivision (b), administrative regulations adopted by state agencies that apply directly to the implementation or enforcement of building standards shall be forwarded to the California Building Standards Commission for approval. Each regulation shall be adopted in compliance with the procedures specified in Section 18930 and in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. These administrative regulations shall be published in the administrative part of the California Building Standards Code.

(b) This section shall not apply to any regulations adopted by the Department of Housing and

Community Development that apply directly to the implementation or enforcement of building standards.

(Added by Stats. 1988, c. 1194, §11, operative Jan. 1, 1989. Amended by Stats. 1989, c. 952, §3; Stats. 1989, c. 1144, §6, eff. Sept. 30, 1989; Stats. 1991, c. 865 (A.B.47), §20; Amended by Stats. 1992, c. 897 (A.B. 3515), §16.5)

§18929.1. Adoption of regulations for annual code adoption cycle; procedures, contents

(a) The commission shall receive proposed building standards from state agencies for consideration in an annual code adoption cycle. The commission shall develop regulations setting forth the procedures for the annual adoption cycle. The regulations shall ensure all of the following:

(1) Adequate public participation in the development of building standards prior to submittal to the commission for adoption and approval.

(2) Adequate notice, in written form, to the public of the compiled building standards and their justification.

(3) Adequate technical review of proposed building standards and accompanying justification by advisory bodies appointed by the commission.

(4) Adequate time for review of recommendations by advisory bodies prior to action by the commission.

(5) The procedures shall meet the intent of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code) and Section 18930.

(b) Where this section is in conflict with other provisions of this part, the intent of this section shall prevail.

(Added by Stats. 1992, c. 897 (A.B. 3515), §17.)

§18930. Approval or adoption of building standards; analysis and criteria; review considerations; factual determinations

(a) Any building standard adopted or proposed by state agencies shall be submitted to, and approved or adopted by, the California Building Standards Commission prior to codification.

Prior to submission to the commission, building standards shall be adopted in compliance with the procedures specified in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. Building standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the

adopting agency or state agency that proposes the building standards which shall, to the satisfaction of the commission, justify the approval thereof in terms of the following criteria:

(1) The proposed building standards do not conflict with, overlap, or duplicate other building standards.

(2) The proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.

(3) The public interest requires the adoption of the building standards.

(4) The proposed building standard is not unreasonable, arbitrary, unfair, or capricious, in whole or in part.

(5) The cost to the public is reasonable, based on the overall benefit to be derived from the building standards.

(6) The proposed building standard is not unnecessarily ambiguous or vague, in whole or in part.

(7) The applicable national specifications, published standards, and model codes have been incorporated therein as provided in this part, where appropriate.

(A) If a national specification, published standard, or model code does not adequately address the goals of the state agency, a statement defining the inadequacy shall accompany the proposed building standard when submitted to the commission.

(B) If there is no national specification, published standard, or model code that is relevant to the proposed building standard, the state agency shall prepare a statement informing the commission and submit that statement with the proposed building standard.

(8) The format of the proposed building standards is consistent with that adopted by the commission.

(9) The proposed building standard, if it promotes fire and panic safety, as determined by the State Fire Marshal, has the written approval of the State Fire Marshal.

(b) In reviewing building standards submitted for its approval, the commission shall consider only the record of the proceedings of the adopting agency, except as provided in subdivision (b) of Section 11359 of the Government Code

(c) Where the commission is the adopting agency, it shall consider the record submitted to, and

considered by, the state agency that proposes the building standards and the record of public comment that results from the commission's adoption of proposed regulations.

(d) (1) The commission shall give great weight to the determinations and analysis of the adopting agency or state agency that proposes the building standards on each of the criteria for approval set forth in subdivision (a). Any factual determinations of the adopting agency or state agency that proposes the building standards shall be considered conclusive by the commission unless the commission specifically finds, and sets forth its reasoning in writing, that the factual determination is arbitrary and capricious or substantially unsupported by the evidence considered by the adopting agency or state agency that proposes the building standards.

(2) Whenever the commission makes a finding, as described in this subdivision, it shall return the standard to the adopting agency or state agency that proposes the building standards for a reexamination of its original determination of the disputed fact.

(e) Whenever a building standard is principally intended to protect the public health and safety, its adoption shall not be a "factual determination" for purposes of subdivision (d). Whenever a building standard is principally intended to conserve energy or other natural resources, the commission shall consider or review the cost to the public or benefit to be derived as a "factual determination" pursuant to subdivision (d). Whenever a building standard promotes fire and panic safety, each agency shall, unless adopted by the State Fire Marshal, submit the building standard to the State Fire Marshal for prior approval.

(f) Whenever the commission finds, pursuant to paragraph (2) of subdivision (a), that a building standard is adopted by an adopting agency pursuant to statutes requiring adoption of the building standard, the commission shall not consider or review whether the adoption is in the public interest pursuant to paragraph (3) of subdivision (a).

(Added by Stats.1979, c.1152, p.4292, §163. Amended by Stts.1981, c.1177, p.4743, §8; Stats.1985, c. 209, §1; Stats.1985, c.632, §2; Stats.1986, c.200, §1; Stats. 1987, c.1053, §15; Stats.1988, c. 1194, §12, operative Jan. 1,, 1989; Stats 1991, c.865 (A.B.47), §21; Amended by Stats.1992, c. 897 (A.B.3515), §17.5; Stats.1995, c. 938 (S.B.523), §65.4, operative Jan. 1, 1996.)

§18931. Duties

The commission shall perform the following:

(a) In accordance with Section 18930 and within 120 days from the date of receipt of adopted standards, review the standards of adopting agencies and approve, return for amendment with recommended changes, or reject building standards submitted to the commission for its approval.

When building standards are returned for amendment or rejected, the commission shall inform the adopting agency or state agency that proposes the building standards of the specific reasons for the

recommended changes or rejection, citing the criteria required under Section 18930. When standards are not acted upon by the commission within 120 days, the standards shall be approved, including codification and publication in the California Building Standards Code, without further review and without return or rejection by the commission.

(b) Codify, including publish, all building standards of adopting agencies or state agencies that propose the building standards and statutes defining building standards into one California Building Standards Code.

(c) Resolve conflict, duplication, and overlap in building standards in the code.

(d) Ensure consistency in nomenclature and format in the code.

(e) In accordance with Section 18945, hear appeals resulting from the administration of state building standards.

(f) Adopt any procedural regulations which it deems necessary to administer this part.

(g) The commission shall direct the executive director to prepare a comprehensive listing of all state amendments developed for publication in the California State Building Code (Part 2 (commencing with Section 101), Title 24, California Code of Regulations), referencing the 1994 Edition of the Uniform Building Code, as published by the International Conference of Building Officials, for the period beginning January 1, 1995, through December 31, 1995. The listing shall identify the following:

(1) Each new state amendment to the 1994 Edition of the Uniform Building Code, as published by the International Conference of Building Officials, and the state agency that adopted the new amendment.

(2) (A) The analysis justifying the adoption or proposal of the amendment identified in paragraph (1), submitted pursuant to paragraph (2) of subdivision (a) of Section 18930.

(B) The analysis justifying the adoption or proposal of the amendment identified in paragraph (1), submitted pursuant to paragraph (3) of Section 18930.

(C) The analysis justifying the adoption or proposal of the amendment identified in paragraph (1), submitted pursuant to paragraph (5) of Section 18930.

(D) The analysis justifying the adoption or proposal of the amendment identified in paragraph (1), submitted pursuant to paragraph (7), or to subparagraph (A) or (B) of paragraph (7) of

subdivision (a) of Section 18930.

(3) Existing state amendments, published in earlier editions of the California State Building Code (Part 2 (commencing with Section 101), Title 24, California Code of Regulations), which are published in the California State Building Code referencing the 1994 Edition of the Uniform Building Code, as published by the International Conference of Building Officials.

(4) The California Building Standards Commission's determination as to whether the amendment referred to in paragraph (3) continues to be justified under the criteria set forth in Section 18930. The commission shall use information gathered in the study required by Chapter 1289 of the Statutes of 1990 in making its determination, and may also request information from the state agency that adopted or proposed the amendments.

The commission shall perform this task to the extent feasible, and within the existing budget constraints during the triennial adoption process of the California Building Standards Code, referencing the 1994 Edition of the Uniform Building Code as published by the International Conference of Building Officials. The commission shall be authorized to reduce the scope of the review should fiscal restraints warrant this action. In the event a reduction in the scope of the review is made, the commission shall give priority to those sections of the California State Building Code (Part 2, commencing with Section 101), Title 24, California Code of Regulations) that directly affect residential construction.

(5) Upon completion of the comprehensive listing required by this subdivision, the commission shall inform the public and all state agencies with the authority to develop building standards that the listing has been completed, and that copies will be made available upon request.

(Added by Stats.1979, c.1152, p. 4292, §163. Amended by Stats.1988, c.1194, §13, operative Jan. 1, 1989; Amended by Stats.1992, c.897 (A.B.3515), §18; Stats.1994, c.249 (A.B. 1780), §1.)

§18931.5. Review and publication costs; payment of proportionate share

(a) Each state agency that adopts or proposes building standards shall pay annually to the California Building Standards Commission a proportionate share of the cost of the review and publication of building standards which are published or proposed to be published in the California Building Standards Code.

(b) The commission shall determine the proportional cost to be paid for review of existing building standards and the amount to be paid for review of building standards, adopted or proposed by a state agency, that have been submitted for publication in the California Building Standards Code.

(Added by Stats.1981, c.1082, p.4173, §1. Amended by Stats.1988, c.1194, §14, operative Jan. 1, 1989; Amended by Stats.1992, c. 897 (A.B.3515), §19.)

§18932. Contents and format of code

(a) The code shall indicate the agency having responsibility vested by law for the administration of each building standard and the occupancy or occupancies affected by each building standard.

(b) The code shall include an index and reference guide.

(c) The commission shall establish the format for the code to conform it as nearly as it deems practicable with the model codes.

(Added by Stats.1979, c.1152, p.4292, §163. Amended by Stats.1987, c.1053, §16; Stats.1988, c. 1194, §15, operative Jan. 1, 1989; Amended by Stats.1992, c.897 (A.B.3515), §20.)

§18933. Amendment or repeal of building standards

(a) The commission may give affected state agencies reasonable time, as specified by the commission, to adopt amendments to building standards submitted for approval. If the agencies do not do so within the reasonable time as specified, the commission shall convene a committee composed of a representative from each of the agencies affected and any other qualified persons who are selected by the commission. This committee shall prepare a recommendation for commission action upon the building standards. Upon the recommendation, or if the committee does not prepare a recommendation and deliver it to the commission within 30 days after being appointed, the commission may rewrite, edit, amend, or adopt, and approve the building standards consistent with the intent of this part and in accordance with the Administrative Procedure Act and the criteria for approval provided in Section 18930. It shall not, however, be required that hearings or other administrative procedure be duplicated on unchanged portions of building standards previously adopted and approved by the commission.

(b) (1) Pursuant to Section 18943, the commission, after publication of building standards pursuant to Section 18941 in the triennial edition of the code, shall recommend to affected state agencies the repeal of building standards of those state agencies which were adopted, or are, in conflict with other published standards in the code. If the state agencies do not repeal the building standards within a reasonable time as specified by the commission, the commission shall convene a committee composed of a representative of each of the agencies affected and other qualified persons selected by the commission to prepare a recommendation for commission action on the building standards.

(2) Upon the recommendation, or if the committee does not prepare a recommendation and deliver

it to the commission within 30 days after being appointed, the commission may repeal the building standards, in accordance with the Administrative Procedure Act. This subdivision shall not supersede Section 18943, but, instead, provides the procedure for effecting that section.

(Added by Stats.1979, c.1152, p.4292, §163. Amended by Stats.1988, c.1194, §16, operative Jan. 1, 1989; Amended by Stats. 1992, c. 897(A.B.3515), §21.)

§18934. Public participation; guidelines

State agencies proposing to adopt building standards shall adopt, and the commission shall approve, regulations establishing procedures to ensure public participation in the development of building standards and regulations.

(Added by Stats.1979, c.1152, p.4292, §163; Amended by Stats.1992, c. 897 (A.B.3515), §22.)

§18934.5. Standards for state buildings; adoption, approval, codification and publication

Where no state agency has the authority to adopt building standards applicable to state buildings, the commission shall adopt, approve, codify, and publish building standards providing the minimum standards for the design and construction of state buildings, including buildings constructed by the Trustees of the California State University and, to the extent permitted by law, to buildings designed and constructed by the Regents of the University of California. Building standards for state buildings shall comply with the criteria in subdivision (a) of Section 18930.

(Added by Stats.1981, c.1082, p.4147, §2. Amended by Stats.1987, c.1053, §17; Stats.1988, c. 1194, §17, operative Jan. 1, 1989; Amended by Stats. 1992, c. 897 (A.B.3515), §23.)

§18934.6. Uniform Code for Building Conservation of the International Conference of Building Officials; publication of standards; exception

On or before January 1, 1993, the commission shall adopt, approve, codify, and publish by reference in the California Building Standards Code the building standards in Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials to provide minimum standards for buildings specified in that appendix, except for buildings subject to building standards adopted pursuant to Part 1.5 (commencing with Section 17910) of Division 13.

(Added by Stats. 1991, c. 865 (A.B.47), §22.)

§18934.7. Uniform Code for Building Conservation of the International Conference of Building Officials; publication of standards; exception

On or before January 1, 1993, the commission shall adopt, approve, codify, and publish by reference in the California Building Standards Code the building standards in Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials to

provide minimum standards for buildings specified in that appendix, except for buildings subject to building standards adopted pursuant to Part 1.5 (commencing with Section 17910).

(Added by Stats.1991, c. 865 (A.B.47), §22.)

§18934.8. Amendments to California Building Code; emergency amendments

(a) Pursuant to subdivision (b), the commission may adopt amendments to the California Building Standards Code provided that they are substantially the same as model code amendments which were adopted on an emergency basis by the code publishers, if the sections being amended are not under the authority of a state agency.

(b) The commission may consider adoption of emergency amendments made to the model codes in an expedited rulemaking process outside the annual code adoption cycle set forth in Section 18929.1.

If a model code organization adopts emergency amendments, the commission may adopt those amendments 120 days after the organization's adoption of those amendments. This rulemaking process shall be completed within 180 days from the date the amendments were adopted by the model code organization. The commission shall ensure that the rulemaking process includes all of the following:

(1) Adequate public participation in the development of building standards prior to submittal to the commission for adoption and approval.

(2) Adequate written notice to the public of the compiled building standards and the written justification therefor.

(3) Adequate technical review of proposed building standards and accompanying justification by advisory bodies appointed by the commission.

(4) Adequate time for review of recommendations by advisory bodies prior to action by the commission.

(c) Amendments to the California Building Standards Code adopted pursuant to this section shall take effect 60 days from the date on which they are adopted by the commission.

(d) Nothing in this section shall be construed to permit amendments to the California Building Standards Code that decrease the level of disabled access provided.

(Added by Stats.1996, c. 384 (A.B.3372), §1.)

§18935. Proposed building standards or administrative regulations; notice and hearings; initial statement of reasons; review and publication; approval of hearings; changes

(a) Notice of proposed building standards shall be given and hearings shall be held by the adopting agencies, as required by the Administrative Procedure Act, prior to the adoption of the building standards and submission to the commission for approval. The notice of proposed building standards and the initial statement of reasons for the proposed building standards shall comply with Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. The adopting agency or state agency that proposes the building standards shall submit the notice and initial statement of reasons for proposed building standards to the California Building Standards Commission, which shall review them for compliance with Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. If the commission determines that the adopting agency or state agency that proposes the building standards has complied with Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, the commission shall approve the notice and initial statement of reasons for proposed building standards, and submit them to the Office of Administrative Law for the sole purpose of inclusion in the California Regulatory Notice Register. The Office of Administrative Law shall publish only those notices of proposed building standards which have been approved by, and submitted to, the office by the California Building Standards Commission.

(b) In order to ensure an absence of conflict between hearings and a maximum opportunity for interested parties to be heard, no hearings by adopting agencies shall be conducted unless the time and place thereof has been approved in writing by the commission prior to public notices of the hearing being given by the adopting agencies.

(c) If, after building standards are submitted to the commission for approval, the commission requires changes therein as a condition for approval, and the changes are made, no additional hearing by the affected state agency shall be required in connection with making the changes when the commission determines the changes are nonsubstantial, solely grammatical in nature, or are sufficiently related to the text submitted to the commission for approval that the public was adequately placed on notice that the change could result from the originally proposed building standards.

(Added by Stats.1979, c. 1152, p.4292, §163. Amended by Stats.1983, c.492, §1; Stats.1984, c.677, §6; Stats.1988, c.1194, §18, operative Jan. 1, 1989; Amended by Stats. 1992, c.897 (A.B.3515), §25.)

§18936. Notices of meetings

The commission shall mail notices of meetings with respect to its proposed action on any building standards to any design profession organizations, chambers of commerce, consumer groups, building and construction industry organizations, governmental agencies, and other parties and organizations

that have submitted a written request therefor at least 15 days prior to any meeting thereon, provided that the failure to do so shall not invalidate any commission action.

(Added by Stats.1979, c.1152, p.4292, §163. Amended by Stats.1979, c.1152, p.4326, §236, operative July 1, 1980; Stats.1987, c. 1053, §18; Stats.1988, c.1194, §19, operative Jan. 1, 1989; Amended by Stats.1992, c.897 (A.B.3515), §26.)

§18937. Emergency standards

(a) Emergency standards shall be acted on by the commission within 30 days and, except for building standards adopted by the Occupational Safety and Health Standards Board which are at least as effective as a federal standard promulgated under Section 6 of the federal Occupational Safety and Health Act of 1970 (Public Law 91-596), only when the adopting agency or state agency that proposes the building standards has made the finding of emergency required by Sections 11346.1 and 11346.5 of the Government Code and the adopting agencies have adopted the emergency standard in compliance with Section 11346.1 of the Government Code, and the commission concurs with that finding. Both the concurrence and the approval of the emergency building standards require an affirmative vote of two-thirds of the members of the commission attending a meeting, or not less than six affirmative votes, whichever is greater.

(b) Emergency standards approved by the commission pursuant to subdivision (a) shall be filed by the commission pursuant to Section 11346.1 of the Government Code and shall be subject to that section.

(Added by Stats.1979, c.1152, p. 4292, §163. Amended by Stats.1992, c.897 (A.B.3515), §27.)

§18938. Filing and codification; publication; effective date; application of section

(a) Building standards shall be filed with the Secretary of State and codified only after they have been approved by the commission and shall not be published in any other title of the California Code of Regulations. Emergency building standards shall be filed with the Secretary of State and shall take effect only after they have been approved by the commission as required by Section 18937. The filing of building standards adopted or approved pursuant to this part, or any certification with respect thereto, with the Secretary of State, or elsewhere as required by law, shall be done solely by the commission.

(b) The building standards contained in the Uniform Fire Code of the International Conference of Building Officials and the Western Fire Chiefs Association, Inc., the Uniform Building Code of the International Conference of Building Officials, Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials, the Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials, the National Electrical

Code of the National Fire Protection Association, and the Uniform Mechanical Code of the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, as referenced in the California Building Standards Code, shall apply to all occupancies throughout the state and shall become effective 180 days after publication in the California Building Standards Code by the California Building Standards Commission or at a later date after publication established by the commission.

(c) Except as otherwise provided in this subdivision, an adoption, amendment, or repeal of a building standard shall become effective 180 days after its publication in the triennial edition of the California Building Standards Code or one of its supplements, or at any later date as approved by the California Building Standards Commission, with the exceptions of building standards adopted by the Occupational Safety and Health Standards Board, standards adopted pursuant to Section 25402 of the Public Resources Code, and those regulations that implement or enforce building standards. Building standards adopted by the Occupational Safety and Health Standards Board and those regulations that implement or enforce building standards shall become effective 30 days after filing by the commission with the Secretary of State. This subdivision shall not apply to emergency building standards, and building standards approved pursuant to subdivision (b) of Section 142.3 of the Labor Code and published pursuant to subdivision (b) of Section 18943. An amendment or a repeal of a building standard in the California Building Standards Code that, as determined by the commission, would result in a less restrictive regulation, shall become effective 30 days after filing of the amendment or repeal by the commission with the Secretary of State.

(d) Emergency standards defined in subdivision (a) of Section 18913 shall become effective when approved by the commission, and filed with the Secretary of State, or upon any later date specified therein, and remain in effect as provided by Section 11346.1 of the Government Code and Section 18937 of this code. Emergency standards shall be distributed as soon as practicable after publication to all interested and affected parties. Notice of repeal, pursuant to Section 11346.1 of the Government Code, of emergency standards defined in subdivision (a) of Section 18913 within the period specified by that section, shall also be given to the parties by the affected agencies promptly after the termination of the statutory period pursuant to Section 11346.1 of the Government Code.

(e) This section shall not be applicable to the time limits set forth in Sections 17922 and 17958 for approval of uniform codes and for changes by local agencies in the California Building Standards Code.

(Added by Stats.1979, c.1152, p.4292, §163. Amended by Stats.1981, c.1003, p. 3876, §3; Stats.1985, c. 209, §2; Stats.1987, c. 1053, §20; Stats.1988, c.1194, §21, operative Jan. 1, 1989,

§18938.5. Application of standards

(a) Only those building standards approved by the commission, and that are effective at the local level at the time an application for a building permit is submitted, shall apply to the plans and specifications for, and to the construction performed under, that building permit.

(b) (1) A local ordinance adding or modifying building standards for residential occupancies, which are published in the California Building Standards Code, shall apply only to an application for a building permit submitted after the effective date of the ordinance and to the plans and specifications for, and the construction performed under, that permit.

(2) Paragraph (1) shall not apply to any of the following:

(A) A city or county that has been subject to an emergency proclaimed pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8850) of Division 1 of Title 2 of the Government Code).

(B) A permit that is subsequently deemed expired because the building or work authorized by the permit is not commenced within 180 days from the date of the permit, or the permittee has suspended or abandoned the work authorized by the permit at any time after the work is commenced.

(C) A permit that is subsequently deemed suspended or revoked because the building official has, in writing, suspended or revoked the permit due to its issuance in error or on the basis of incorrect information supplied.

(c) No model code made applicable to any additional occupancy shall apply to any project that has been submitted for a building permit prior to the effective date of that model code.

(Added by Stats.1985, c.577, §1, eff. Sept.14, 1985. Amended by Stats.1987, c. 1053, §21;Amended by Stats.1992, c.623 (A.B.2963), §1; Stats.1992, c. 897(A.B.3515), §29.5.)

§18940. Codification of standards or administrative regulations

Codification of building standards approved by the commission shall be incorporated into the code and shall not be incorporated into other individual titles of state agencies in the California Code of Regulations.

(Added by Stats.1979, c.1152, p.4292, §163. Amended by Stats.1981, c. 1003, p. 3876, §4; Stats. 1987, c.1053, §22; Stats.1988, c.1194, §23, operative Jan. 1, 1989; Amended by Stats.1992, c.897 (A.B.3515), §31.)

§18941. Standards; administration and enforcement; performance basis

All building standards shall be administered and enforced and, whenever practicable, written on a performance basis consistent with state and nationally recognized standards for building construction in view of the use and occupancy of each structure to preserve and protect the public health and safety.

(Added by Stats.1979, c.1152, p.4292, §163. Amended by Stats.1982, c.507, §3, eff. July 13, 1982; Stats.1988, c.1194, §24, operative Jan. 1, 1989; Amended by Stats.1992, c.897 (A.B.3515), §32.)

§18941.5. Amendments, additions, deletions to standards; effective date; publication date; more restrictive standards

(a) (1) Amendments, additions, and deletions to the California Building Standards Code adopted by a city, county, or city and county pursuant to Section 18941.5 or pursuant to Section 17958.7, together with all applicable portions of the California Building Standards Code, shall become effective 180 days after publication of the California Building Standards Code by the commission, or at a later date after publication established by the commission.

(2) The publication date established by the commission shall be no earlier than the date the California Building Standards Code is available for purchase by the public.

(b) Neither the State Building Standards Law contained in this part, nor the application of building standards contained in this section, shall limit the authority of a city, county, or city and county to establish more restrictive building standards reasonably necessary because of local climatic, geological, or topographical conditions. The governing body shall make the finding required by Section 17958.7 and the other requirements imposed by Section 17958.7 shall apply to that finding.

Nothing in this section shall limit the authority of fire protection districts pursuant to subdivision (a) of Section 13869.7. Further, nothing in this section shall require findings required by Section 17958.7 beyond those currently required for more restrictive building standards related to housing.

(Added by Stats.1979, c.1152, p.4292, §163. Amended by Stats.1988, c. 1302, §1; Stats.1989, c.952, §5; Stats.1991, c.173 (A.B.204), §4; Stats.1991, c. 865 (A.B.47), §23.)

§18941.6. Hazardous building ordinances and programs; building standards; local conditions; exceptions; study

(a) Notwithstanding any other provision of this part, ordinances and programs adopted on or before January 1, 1993, that contain standards to strengthen potentially hazardous buildings pursuant to subdivision (b) of Section 8875.2 of the Government Code, shall incorporate the building standards in Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials published in the California Building Standards Code, except for standards found by local ordinance to be inapplicable based on local conditions, as defined in subdivision (b), or based on an approved study pursuant to subdivision (c), or both. Ordinances and

programs shall be updated in a timely manner to reflect changes in the model code, and more frequently if deemed necessary by local jurisdictions.

(b) For the purpose of subdivision (a), and notwithstanding the meaning of "local conditions" as used elsewhere in this part and Part 2.5 (commencing with Section 18901), the term "local conditions" shall be limited to those conditions that affect the implementation of seismic strengthening standards on the following only:

(1) The preservation of qualified historic structures as governed by the State Historical Building Code (Part 2.7 (commencing with Section 18950)).

(2) Historic preservation programs, including, but not limited to, the California Mainstreet Program.

(3) The preservation of affordable housing.

(c) Any ordinance or program adopted on or before January 1, 1993, may include exceptions for local conditions not defined in subdivision (b) if the jurisdiction has approved a study on or before January 1, 1993, describing the effects of the exceptions. The study shall include a seismic hazards assessment, seismic retrofit cost comparisons, and earthquake damage estimates for a major earthquake, including the differences in costs, deaths, and injuries between full compliance with Appendix Chapter 1 of the Uniform Code for Building Conservation and the ordinance or program. No study shall be required pursuant to this subdivision if the exceptions for local conditions not defined in subdivision (b) result in standards or requirements that are more stringent than those in Appendix Chapter 1 of the Uniform Code for Building Conservation.

(d) Ordinances and programs adopted pursuant to this section shall be conclusively presumed to comply with the requirements of Chapter 173 of the Statutes of 1991.¹

(Added by Stats.1992, c.346 (A.B.2358), §2. Amended by Stats.1993, c. 1294 (A.B.1904), §2, eff. October 11, 1993; Stats. 1994, c. 1219 (S.B. 1988), §2.)

¹Amending Health & Safety Code §§17922, 18916, and 18941.5, and adding Health and Safety Code §18934.6.

§18941.7. Closed military bases; compliance with state and local regulations or standards

(a) The governing body of a city, county, city and county, or a joint powers agency which has been authorized to adopt and administer building and fire safety codes and standards may adopt an ordinance that allows a building or other structure located on a military base selected for closure by action of the federal Defense Base Closure and Realignment Commission to comply with this part and Division 12 (commencing with Section 13000), or any regulations or standards promulgated

pursuant to this part, in a graduated manner over a period of no more than three years from the earlier of either the date the property has been transferred by, or the date a lease is entered into with, the federal government pursuant to paragraph (2), if all of the following conditions are met:

(1) The use of the building or structure is not hazardous to life safety, fire safety, health, or sanitation, as determined by the local building official and fire marshal.

(2) The building or other structure has been transferred by the federal government to the city, county, city and county, redevelopment agency, joint powers agency, or reuse entity or is under a lease between the city, county, city and county, redevelopment agency, joint powers agency, or reuse entity and the federal government.

(3) The governing body of the city, county, city and county, or a joint powers agency which has been authorized to adopt and administer building and fire safety codes and standards adopts a graduated compliance plan which includes all of the following:

(A) Requirements for buildings and structures with:

(i) No change in occupancy or use with no anticipated alterations.

(ii) No change in occupancy or use with planned alterations.

(iii) Change in occupancy or use with no anticipated alterations.

(iv) Change in occupancy or use with planned alterations.

(B) Requirements for a building and structure compliance inspection and a fire department inspection, and for preparation of inspection reports, prior to issuing a certificate of occupancy.

(C) Requirements for the inspection reports prepared pursuant to subparagraph (B) to be attached to the certificate of occupancy or provided to the occupants of the building or other structure.

(D) Requirements for the terms and period of time for compliance to be specified in the sublease.

(b) Nothing in this section affects the requirement of state consent to retrocession pursuant to Section 113 of the Government Code.

(c) This section shall be applicable to a building or other structure for which the conditions in paragraphs (1), (2), and (3) of subdivision (a) are met before January 1, 2000.

(d) This section shall remain in effect only until January 1, 2003, and as of that date is repealed,

unless a later-enacted statute, that is enacted before January 1, 2003, deletes, or extends that date.

(Added by Stats.1995, c.469 (S.B.81), §1, eff. Sept. 8, 1995. Amended by Stats.1996, c.627 (S.B.1640), §1; Stats.1997, c.645 (A.B.1071), §14.)

§18941.8. March Air Force Base; graduated compliance with regulations or standards; adoption of ordinance; conditions

(a) The governing body of a local agency may adopt an ordinance that allows a building or other structure designated in subdivision (b) to comply with this part and Division 12 (commencing with Section 13000), or to any regulations or standards promulgated pursuant to this part, in a graduated manner over a period of no more than seven years.

(b) This section shall apply only to those buildings and other structures located on the former March Air Force Base, commonly known as:

(1) The Ben Clark Training Center, formerly known as the Non-Commissioned Officers' Training Academy, including all buildings and structures on the approximately 360 acres.

(2) The buildings comprising the medical facility.

(3) The March Joint Powers Authority, Economic Development Conveyance area comprising buildings 659, 660, 755, 760, 768, 940, 941, 942, 962, 976, 977, 1054, 1055, 2594, 2595, 2620, 2622, 2706, 2991, 2992, 2993, 2994, and 2995.

(c) The period for graduated compliance shall begin with the date the title to the property was transferred by the federal government to a local agency.

(d) The authority for a local agency to adopt an ordinance pursuant to this section is an alternative to the authority provided by Section 18941.7, and shall not be used consecutively with Section 18941.7.

(e) An ordinance adopted by a local agency pursuant to subdivision (a) shall not apply to a building or other structure that will be used as a permanent residence.

(f) Prior to the adoption of the ordinance pursuant to subdivision (a), each of the following conditions shall be met:

(1) The use of the building or other structure is not hazardous to life safety, fire safety, health, or sanitation, as determined by the application of state and local building and fire codes and standards by the local building official and fire marshal.

(2) The building or other structure has been transferred by the federal government to a local agency.

(3) The governing body of the local agency adopts a graduated compliance plan which includes all of the following:

(A) Requirements for buildings and structures with:

(i) No change in occupancy or use with no anticipated alterations.

(ii) No change in occupancy or use with planned alterations.

(iii) Change in occupancy or use with no anticipated alterations.

(iv) Change in occupancy or use with planned alterations.

(B) Requirements for a building and structure compliance inspection and a fire department inspection, and for preparation of inspection reports, prior to issuing a certificate of occupancy.

(C) Requirements for the inspection reports prepared pursuant to subparagraph (B) to be attached to the certificate of occupancy or provided to the occupants of the building or other structure.

(D) Requirements for the terms and period of time for compliance to be specified in the certificate of occupancy.

(E) Requirements that the alterations conform to the standards that were in effect at the time of the alteration.

(g) (1) Prior to the adoption of a graduated compliance plan, the local agency shall form a Compliance Plan Review Committee, hereafter referred to as the "committee," to comment on, and make recommendations to, the governing board of the local agency concerning the compliance plan.

(2) The committee shall be appointed by the governing board of the local agency and the membership of the committee shall contain at least one member from each of the following disciplines:

(A) Engineer, licensed by the State of California.

(B) Architect, licensed by the State of California.

(C) Building Inspector, certified by the International Conference of Building Officials or another similar recognized state, national, or international association.

(3) The committee may contain additional members at the discretion of the governing body of the

local agency, whose unique background and knowledge may be of assistance to the committee.

(4) In no case shall the membership of the committee contain less than one member from the disciplines set forth in subparagraphs (A) to (C), inclusive, of paragraph (2).

(5) No member appointed to the committee shall be an employee of the local agency.

(6) The committee shall review the draft plan for its consistency with the requirements of this section, and report its written findings and recommendations to the governing board of the local agency. If the committee finds that the draft plan is not consistent with the requirements of this section, the committee shall recommend changes to the draft plan to achieve consistency.

(7) The local agency shall consider the findings and recommendations of the committee. If the committee finds that the draft plan is not consistent with the requirements of this section, the local agency shall take one of the following actions:

(A) Change the draft plan to be consistent with the requirements of this section, as recommended by the committee.

(B) Adopt the draft plan with some of the recommended changes or without changes, provided that the local agency makes written findings that explain the reasons why the local agency believes that the draft plan, as adopted, is consistent with the requirements of this section despite the findings and recommendations of the committee which were not adopted by the local agency.

(8) The local agency shall file a copy of the approved graduated compliance plan with the California Building Standards Commission.

(h) (1) Five years after the commencement of the period for graduated compliance specified in subdivision (b), the local agency shall arrange for the committee to determine whether the buildings or other structures adhere to the graduated compliance plan.

(2) The committee membership shall be governed by subparagraphs (2) to (5) inclusive, of subdivision (g).

(3) If the committee determines that the buildings or other structures do not adhere to the graduated compliance plan, the committee shall recommend to the governing board of the local agency that the local building official should initiate appropriate proceedings to withdraw the certificate of occupancy for that building or structure.

(i) Nothing in this section affects the requirements of state consent to retrocession pursuant to

Section 113 of the Government Code.

(j) As used in this section, "local agency" means the County of Riverside, a city within the County of Riverside with jurisdiction over the March Air Force Base or the March Air Reserve Base, or the March Joint Powers Authority.

(k) This section shall be applicable to a building or other structure for which a local agency adopts a graduated compliance plan before January 1, 2000.

(l) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

(m) Nothing in this section shall affect local, state, or federal laws as they relate to access to the disabled.

(Added by Stats.1997, c.633 (A.B.125), §1.)

§18941.9. Graduated compliance; adoption of ordinances; application; conditions

(a) The governing body of a local agency may adopt an ordinance that allows a building or other structure located on a former military base to comply with this part and Division 12 (commencing with Section 13000), or to any regulations or standards promulgated pursuant to this part, in a graduated manner over a period of no more than seven years.

(b) This section shall apply only to those buildings and other structures located on the following military bases or on specified portions of former military bases that were selected for closure or realigned by action of the federal Defense Base Closure and Realignment Commission:

(1) At the former Castle Air Force Base, Building 1015 and Building 1075.

(2) At the former Hamilton Air Force Base, approximately 38 acres, commonly known as Planning Areas 6, 8, 9, and 10.

(3) The former Hunter's Point Naval Shipyard.

(4) The former Treasure Island Naval Station.

(5) The former San Diego Naval Training Center.

(6) At the Marine Corps Air Station-Tustin, approximately 100 acres, commonly known as Planning Areas 1, 2, 3, 6, 8, 9, 10, 16, and 17.

(7) At the Marine Corps Air Services-El Toro, Buildings 295, 296, 297, 313, 317, 318, 319, 360, 371, and 722.

(8) At the former Castle Air Force Base, Buildings 54, 175, 765, 871, 1015, 1200, 1212, 1213, 1319, 1320, 1322, 1324, 1332, 1333, 1335, 1340, 1509, 1535, 1540, and 1545.

(9) At the Oakland Army Base, Buildings 641, 645, 646, 655, 660, 701, 726, 738, 740, 780, 790, 792, 794, 796, 802, 803, 804, 805, 806, 807, 808, 821, 822, and 823.

(10) At the former Naval Air Station Alameda, Buildings 2, 3, 4, 5, 8, 16, 17, 18, and 94.

(11) At Point Molate Naval Fuel Depot, Buildings 1, 6, 17, 63, 76, 85, 87, 123, and 132.

(c) The period for graduated compliance shall begin with the earlier of either the date the title to the property was transferred by, or the date a lease is entered into with, the federal government to the local agency.

(d) The authority for a local agency to adopt an ordinance pursuant to this section is an alternative to the authority provided by Section 18941.7, and shall not be used consecutively with Section 18941.7.

(e) An ordinance adopted by a local agency pursuant to subdivision (a) shall not apply to a building or other structure that will be used as a residence.

(f) Prior to the adoption of the ordinance pursuant to subdivision (a), each of the following conditions shall be met:

(1) The use of the building or other structure is not hazardous to life safety, fire safety, health, or sanitation, as determined by the application of state and local building and fire codes and standards by the local building official and fire marshal.

(2) The building or other structure has been transferred by the federal government to the local agency or is under a lease between the local agency and the federal government.

(3) The governing body of the local agency adopts a graduated compliance plan which includes all of the following:

(A) Requirements for buildings and structures with:

(i) No change in occupancy or use with no anticipated alterations.

(ii) No change in occupancy or use with planned alterations.

(iii) Change in occupancy or use with no anticipated alterations.

(iv) Change in occupancy or use with planned alterations.

(B) Requirements for a building and structure compliance inspection and a fire department inspection, and for preparation of inspection reports, prior to issuing a certificate of occupancy.

(C) Requirements for the inspection reports prepared pursuant to subparagraph (B) to be attached to the certificate of occupancy or provided to the occupants of the building or other structure.

(D) Requirements for the terms and period of time for compliance to be specified in the certificate of occupancy.

(E) Requirements that the alterations conform to the standards that were in effect at the time of the alteration.

(g) (1) Before adopting the graduated compliance plan, the local agency shall arrange for the review of the draft plan by an engineer, architect, or building inspector. The engineer or architect shall be licensed by the State of California, and the building inspector shall be certified by the International Conference of Building Officials or another similar recognized state, national, or international association. The engineer, architect, or building inspector shall not be an employee of the local agency.

(2) The engineer, architect, or building inspector shall review the draft plan for its consistency with the requirements of this section, and report his or her written findings and recommendations to the local agency. If the engineer, architect, or building inspector finds that the draft plan is not consistent with the requirements of this section, the engineer, architect, or building inspector shall recommend changes to the draft plan to achieve consistency.

(3) The local agency shall consider the findings and recommendations of the engineer, architect, or building inspector. If the engineer, architect, or building inspector finds that the draft plan is not consistent with the requirements of this section, the local agency shall take one of the following actions:

(A) Change the draft plan to be consistent with the requirements of this section, as recommended by the engineer, architect, or building inspector.

(B) Adopt the draft plan with some of the recommended changes or without changes, provided that the local agency makes written findings that explain the reasons why the local agency believes that the draft plan, as adopted, is consistent with the requirements of this section despite the findings and recommendations of the engineer, architect, or building inspector which were not adopted by the local agency.

(4) The local agency shall file a copy of the approved graduated compliance plan with the California Building Standards Commission.

(h) (1) Five years after the beginning of the period for graduated compliance specified in subdivision (b), the local agency shall arrange for an engineer, architect, or building inspector to determine whether the buildings or other structures adhere to the graduated compliance plan. The engineer or architect shall be licensed by the State of California and the building inspector shall be certified by the International Conference of Building Officials or another similar recognized state, national, or international association. The engineer, architect, or building inspector shall not be an employee of the local agency.

(2) If the engineer, architect, or building inspector determines that the building or other structure does not adhere to the graduated compliance plan, the local building official shall initiate appropriate proceedings to withdraw the certificate of occupancy for that building or structure.

(i) Nothing in this section affects the requirement of state consent to retrocession pursuant to Section 113 of the Government Code.

(j) As used in this section, "local agency" means a city, county, or city and county. When authorized by state law or local ordinance to adopt and administer building and fire safety codes and standards, a community redevelopment agency, a reuse entity, or a joint powers agency may also be a "local agency" for the purposes of this section.

(k) This section shall be applicable to a building or other structure for which a local agency adopts a graduated compliance plan before January 1, 2000.

(l) Any taxpayer, property owner, resident, or public agency has standing to enforce the provisions of this section.

(m) Nothing in this section shall affect local, state, or federal laws as they relate to access to the disabled.

(n) This section shall remain in effect only until January 1, 2007, and as of that date is repealed,

unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

(Added by Stats.1997, c.645 (A.B.1071), §15.)

§18942. Publication; supplements; emergency standards; availability and possession of code

(a) The commission shall publish, or cause to be published, editions of the code in its entirety once in every three years. In each intervening year the commission shall publish, or cause to be published, supplements as necessary. For emergency building standards defined in subdivision (a) of Section 18913, an emergency building standards supplement shall be published whenever the commission determines it is necessary.

The commission shall also publish, for emergency standards defined in subdivision (b) of Section 18913 and for building standards or administrative regulations that apply directly to the implementation or enforcement of building standards approved pursuant to subdivision (b) of Section 142.3 of the Labor Code, a semiannual supplement, or a more frequent supplement if required by federal law.

(b) The commission shall publish the text of Article 2.5 (commencing with Section 115920) of Chapter 5 of Part 10 of Division 104, within the California Code of Regulations, Title 24, Part 2 requirements for single-family residential occupancies, with the following note: "NOTE: These regulations are subject to local government modification. You should verify the applicable local government requirements at the time of application for a building permit."

(c) The commission may publish, stockpile, and sell at a reasonable price the code and any materials incorporated therein by reference if it deems the latter is insufficiently available to the public, or unavailable at a reasonable price. Each state department concerned and each city, county, or city and county shall have an up-to-date copy of the code available for public inspection.

(d) (1) Each city, county, and city and county, including charter cities, shall obtain and maintain with all revisions on a current basis, at least one copy of the building standards and other state regulations relating to buildings published in Titles 8, 19, 20, 24, and 25 of the California Code of Regulations. These codes shall be maintained in the office of the building official responsible for the administration and enforcement of this part.

(2) This subdivision shall not apply to any city or county which contracts for the administration and enforcement of the provisions of this part with another local government agency which complies with this section.

(Added by Stats.1979, c.1152, p.4292, §163. Amended by Stats.1979, c.1152, p.4326, §238,

operative July 1, 1980; Stats.1981, c. 817, p. 3167, §6; Stats.1983, c. 142, §69; Stats.1987, c.1053, §23; Stats.1988, c. 1194, §25, operative Jan. 1, 1989; Stats. 1989, c. 952, §6; Amended by Stats.1992, c.897 (A.B.3515), §34; Stats.1996, c. 925 (A.B.3305), §3.)

§18942.1. Filing of regulations or orders of repeal; transmittal

(a) If a regulation or order of repeal is filed with the Office of Administrative Law, and if it appears to be a building standard, as defined by Section 18909, which has not been approved by the commission, the Office of Administrative Law shall consult with the commission or the commission's staff to determine the character and status of the filed regulation or order. Any building standard improperly transmitted to the Office of Administrative Law, as determined according to this section, shall not be then filed with the Secretary of State, but, instead, the Office of Administrative Law shall transmit the building standard to the commission and notify the adopting agency of this action.

(b) If an administrative regulation or order of repeal is filed with the commission and it does not directly apply to the implementation or enforcement of a building standard, it shall not be submitted to the commission for action, but, instead, the commission shall transmit the regulations to the Office of Administrative Law and notify the submitting agency of this action.

(Added by Stats.1981, c. 1003, p. 3877, §5. Amended by Stats. 1988, c. 1194, §26, operative Jan. 1, 1989; Amended by Stats.1992, c. 897 (A.B. 3515), §35.)

§18943. Effect of standards in individual titles; publication of standards adopted by OSHA

(a) Building standards in individual titles of the California Code of Regulations other than the California Building Standards Code shall have no force nor effect after January 1, 1985.

(b) Building standards adopted by the Occupational Safety and Health Standards Board shall be published as provided in Section 18942 by the commission in the California Building Standards Code. Those building standards may also be published by the Occupational Safety and Health Standards Board in other provisions in Title 8 of the California Code of Regulations prior to publication in the California Building Standards Code if that other publication includes an appropriate identification of building standards contained in the other publication.

(Added by Stats.1979, c.1152, p.4292, §163. Amended by Stats.1981, c. 817, p. 3168, §7; Stats.1987, c. 1053, §24; Stats.1988, c. 1194, §28, operative Jan. 1, 1989; Amended by Stats.1992, c.897 (A.B.3515), §37.)

§18944. References to code in agency regulations

State agencies shall adopt regulations for publication in the titles of the California Code of

Regulations containing other regulations of the agency to identify, by reference, the appropriate sections of the California Building Standards Code containing those building standards for which that agency has enforcement responsibility.

(Added by Stats.1979, c. 1152, p. 4292, §163; Amended by Stats.1987, c. 1053, §25; Stats.1988, c.1194, §29, operative Jan. 1, 1989; Amended by Stats.1992, c. 897 (A.B. 3515, §38.)

§18944.5. Agencies bound by code

The code shall be binding on the state and other public agencies, including federal agencies to the extent permitted by federal law, in the same manner as it binds private parties or entities.

(Added by Stats.1979, c.1152, p.4292, §163.)

§18944.7. State historical building code; alternative regulations and standards; maintenance as separate and distinct part or portion

The alternative building regulations and building standards authorized under the State Historical Building Code (Part 2.7 (commencing with Section 18950) of Division 13) which have been published in Part 8 of the California Building Standards Code shall be maintained as a separate and distinct part or portion of the California Building Standards Code pursuant to that title.

(Added by Stats.1982, c.1417, §1. Amended by Stats.1988, c.1194, §30, operative Jan. 1, 1989.)

§18945. Right to appeal

(a) Any person adversely affected by any regulation, rules, omission, interpretation, decision, or practice of any state agency respecting the administration of any building standard may appeal the issue for resolution to the commission.

(b) If any local agency having authority to enforce a state building standard and any person adversely affected by any regulation, rule, omission, interpretation, decision, or practice of such agency respecting such building standard both wish to appeal the issue for resolution to the commission, then both parties may appeal to the commission. The commission may accept such appeal only if the commission determines that the issues involved in such appeal have statewide significance.

(Added by Stats.1979, c.1152, p.4292, §163.)

§18946. Hearing; reference; decision

Except as provided in Section 18947, the commission may hear the appeal itself, or by designating a member of the commission to be a hearing officer, or may refer the appealing parties to an advisory panel, a committee, or to a hearing officer appointed by the Office of Administrative Hearings, wherein the hearing officer designated by the commission or appointed by the Office of Administrative Hearings, should, where possible, possess some expertise in the technical aspects of the appeal. If a referral is made, the panel, committee, or hearing officer may make an investigation and conduct hearings as they deem appropriate, provided that all interested agencies or parties shall have a full and fair opportunity to be heard. A proposed written decision shall be submitted to the commission which the commission may adopt, adopt as modified, or reject. The commission shall render its decision or interpretation in writing.

(Added by Stats.1979, c.1152, p.4292, §163. Amended by Stats.1981, c.1003, p.3877, §6.)

§18947. Appeal to occupational safety and health appeals board

Where the appeal issue results from the enforcement of a standard for occupational safety and health by an inspector of the Division of Occupational Safety and Health of the Department of Industrial Relations, the employer shall appeal directly to the Occupational Safety and Health Appeals Board, and the appeal shall be conducted pursuant to the provisions of Chapter 7 (commencing with Section 6600) of Part 1 of Division 5 of the Labor Code. Such an appeal, if sent to the commission in error, shall be forwarded immediately to the Occupational Safety and Health Appeals Board. The date of receipt of any such appeal by the commission shall be considered the date of filing for purposes of meeting the filing time requirements of Section 6600 of the Labor Code.

(Added by Stats.1979, c.1152, p.4292, §163.)

§18948. Responsibility for enforcement and administration

The responsibility for the enforcement and administration of building standards shall remain in the state or local agency specified by other provisions of law.

(Added by Stats.1979, c.1152, p.4292, §163.)

§18949. Fee Schedule

The commission shall establish a schedule of fees for appeals in an amount sufficient to pay its costs of administration and hearing appeals.

(Added by Stats.1981, c.1082, p.4174, §3.)

§18949.1. State architect, transfer of responsibilities to commission

Any responsibilities of the State Architect to adopt regulations relating to building standards are hereby transferred to the commission.

(Added by Stats.1991, c. 865 (A.B.47), §24.)

§18949.2. State Fire Marshal; formal rule making process; transfer of duties to commission; fire and life safety standards; development; review; modification

(a) Any responsibilities of the State Fire Marshal to adopt, through a formal rulemaking process as provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, relating to building standards, including, but not limited to, Sections 13108, 13143, 13143.6, and 13211, are hereby transferred to the commission.

(b) The State Fire Marshal shall remain the state agency responsible for developing building standards to implement the state's fire and life safety policy. In its role as the fire and life safety standard developing agency, the State Fire Marshal shall continue its existing activities and forums designed to facilitate compromise and consensus among the various individuals and groups involved in development of the state's codes related to fire and life safety.

(c) The state's fire and life safety building standards, as developed by the State Fire Marshal and as adopted by the commission, shall continue to be based on the state's fire and life safety policy goals and mandates as they existed prior to the enactment of this chapter and as they are amended.

(d) The role of the commission in reviewing and adopting fire and life safety building standards shall be strictly limited to a technical review of those standards, through a process integrated with the technical review of all other state building standards, and a determination as to whether those standards conform to the requirements of Section 18930 commonly known as the "nine point criteria."

(e) The commission may not rewrite or modify any fire or life safety building standard without the express mutual agreement of the State Fire Marshal. If the State Fire Marshal does not agree with the modification of a fire or life safety building standard as proposed by the commission, the authority of the commission shall be limited to disapproval of the standard, pursuant to the "nine point criteria" in Section 18930.

(Added by Stats.1991, c.865 (A.B.47), §24.)

§18949.3. Office of Statewide Health Planning and Development; transfer of duties to commission

Any responsibilities of the Office of Statewide Health Planning and Development to adopt regulations relating to building standards, including, but not limited to, responsibilities specified in Division 12.5 (commencing with Section 15000), are hereby transferred to the commission.

(Added by Stats.1991, c.865 (A.B.47), §24.)

§18949.4. State Energy Resources Conservation and Development Commission; submission of standards for review and approval; time schedule

The State Energy Resources Conservation and Development Commission shall submit building standards to the commission for review and approval pursuant to Section 18930 in accordance with the time schedule established by the State Building Standards Commission.

(Added by Stats.1991, c.865 (A.B.47), §24.)

§18949.5. Department of Housing and Community Development; transfer of duties to commission

Any responsibilities of the Department of Housing and Community Development to adopt regulations relating to buildings standards are hereby transferred to the commission.

(Added by Stats.1991, c.865 (A.B.47), §24.)

§18949.6. Procedure for adoption of standards and administrative regulations

(a) The commission shall adopt regulations setting forth the procedure for the adoption of building standards and administrative regulations that apply directly to the implementation or enforcement of building standards.

(b) Regulatory adoption shall be accomplished so as to facilitate the triennial adoption of the specified model codes pursuant to Section 18928.

(c) The regulations shall allow for the distribution of proposed building standards and regulatory changes to the public for review in compliance with the requirements of the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and for the acceptance of responses from the public.

(d) With regard to proposed residential building standards, the Trade and Commerce Agency shall provide, if requested, by the commission, an economic review of the housing cost impact statement or related study submitted by the code change proponent pursuant to Section 11346.5 of the

Government Code.

(Added by Stats.1991, c.865 (A.B.47), §24; Amended by Stats.1993, c.56 (A.B.2351), §27; Stats.1995, c.938 (S.B.523), §65.8, operative July 1, 1997; Stats.1998, c.426 (A.B.2697), §1, eff. Sept. 11, 1998.)

§18949.25. Construction inspector

For purposes of this chapter, "construction inspector" means any person who is hired or contracted by a local agency in a temporary or permanent capacity for the purpose of inspecting construction for structural, seismic safety, fire and life safety, or building system requirements of adopted uniform codes or standards, as applied to residential, commercial, or industrial buildings.

(Formerly §18965, added by Stats.1995, c. 623 (A.B. 717), §1. Renumbered §18949.25 and amended by Stats.1996, c.124 (A.B.3470), §60.)

§18949.26. Plans examiner

For purposes of this chapter, "plans examiner" means any person who is hired or contracted by a local agency in a temporary or permanent capacity for the purpose of performing construction plan review for structural, seismic safety, fire and life safety, or building system requirements of adopted uniform codes or standards, as applied to residential, commercial, or industrial buildings.

(Formerly §18966, added by Stats.1995, c.623 (A.B.717), §1. Renumbered §18949.26 and amended by Stats.1996, c.124 (A.B.3470), §61.)

§18949.27. Building Official

For purposes of this chapter, "building official" means the individual invested with the responsibility for overseeing local code enforcement activities, including administration of the building department, interpretation of code requirements, and direction of the code adoption process.

(Formerly. §18967, added by Stats. 1995, c.623 (A.B.717), §1. Renumbered §18949.27 and amended by Stats.1996, c.124 (A.B.3470), §62.)

§18949.28. Experience and certification requirements; exemptions

(a) All construction inspectors, plans examiners and building officials who are not exempt from the requirements of this chapter pursuant to subdivision (b), or previously certified, shall complete one year of verifiable experience in the appropriate field, and shall, within one year thereafter, obtain certification from a recognized state, national, or international association, as determined by the local agency. The area of certification shall be closely related to the primary job function, as determined by the local agency.

(b) Any person who is currently and has continuously been employed as a construction inspector, plans examiner, or building official for not less than two years prior to the effective date of this section shall be exempt from the certification provisions of this section, unless and until that person obtains employment as a construction inspector, plans examiner, or building official with a different employer.

(c) Nothing in this article is intended to prohibit a local agency from prescribing additional criteria for the certification of construction inspectors, plans examiners, or building officials.

(d) Nothing in this chapter, as it relates to construction inspectors, plans examiners, or building officials, shall be construed to alter the requirements for licensure, or the jurisdiction, authority, or scope of practice, of architects pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, professional engineers pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, or land surveyors pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code.

(Formerly §18968, added by Stats.1995, c.623(A.B.717), §1. Renumbered §18949.28 and amended by Stats.1996, c.124 (A.B.3470), §63.)

§18949.29. Continuing Education

All construction inspectors, plans examiners, and building officials shall complete a minimum of 45 hours of continuing education for every three-year period.

(a) Providers of continuing education may include any organizations affiliated with the code enforcement profession, community colleges, or other providers of similar quality, as determined by the local agency.

(b) For purposes of this section, "continuing education" is defined as that education relating to the enforcement of Title 24 of the California Code of Regulations, and any other locally enforced building and construction standards, including, but not limited to, the model uniform codes adopted by the state. When a local agency selects a model code organization as a provider of continuing education or certification programs regarding the enforcement of a model code adopted by the state, the local agency shall give preference to the organization responsible for promulgating or drafting that model code.

(Formerly §18969, added by Stats.1995, c.623 (A.B.717), §1. Renumbered §18949.29 and amended by Stats.1996, c.124 (A.B.3470), §64.)

§18949.30. Application of chapter

This chapter does not apply to a registered professional engineer, licensed land surveyor, or licensed architect rendering construction inspection services, plan examination services, or building official services within the scope of his or her registration or licensure, except that this chapter applies to a registered professional engineer, licensed land surveyor, or licensed architect who is an employee of a local agency. This chapter does not apply to a construction inspector or plans examiner employed by any city or county fire department or district providing fire protection services.

(Formerly §18970, added by Stats.1995, c.623 (A.B.717), §1. Renumbered §18949.30 and amended by Stats.1996, c.124(A.B.3470), §65.)

§18949.31. Local agencies; costs and fees

The local agency shall bear the costs of certification, certification renewal, and continuing education, as mandated by this chapter. The local agency may impose fees, including, but not limited to, fees for construction inspection and plan checks, which may be used to cover the costs of compliance with this chapter. A local agency's actual costs of compliance with this chapter may include, but are not limited to, training and certification courses, certification exam and renewal fees, employee salary during training and certification courses, and mileage and other reimbursable costs incurred by the employee. The fees imposed to cover the costs of compliance with this chapter shall reflect these actual costs, and are not limited by Chapter 5 of Division 1 of Title 7.

(Formerly §18971, added by Stats.1995, c. 623 (A.B.717), §1. Renumbered §18949.31 and amended by Stats.1996, c.124 (A.B.3470), §66.)